



# भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY  
साप्ताहिक  
WEEKLY

सं. 8] नई दिल्ली, फरवरी 15—फरवरी 21, 2015, शनिवार/माघ 26—फाल्गुन 2, 1936  
No. 8] NEW DELHI, FEBRUARY 15—FEBRUARY 21, 2015, SATURDAY/MAGHA 26—PHALGUNA 2, 1936

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

( कार्मिक और प्रशिक्षण विभाग )

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 279.**—केंद्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 ( 1946 का अधिनियम सं. 25 ) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए गोवा राज्य सरकार, गृह विभाग ( सामान्य ) सचिवालय, पोरवोरिम, गोवा की सहमति से दिनांक 6 नवम्बर, 2014 के आदेश सं. 27/12/2014-एचडी ( जी )/3478 द्वारा पणजी एवं मोरमुगावो बंदरगाहों से कर्नाटक राज्य के लौह अयस्क के अवैध निर्यात का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों एवं न्यायाधिकार क्षेत्र का विस्तार संपूर्ण गोवा राज्य पर करती है।

[ फा. सं. 228/18/2014-एवीडी-II ]

सुशील कुमार, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC  
GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 13th February, 2015

**S.O. 279.**—In exercise of the powers conferred by sub-section(1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 ( Act No. 25 of 1946), the Central Government with the consent of the State Government of Goa, Department of Home (General) Secretariat, Porvorim, Goa vide Order No. 27/12/2014-HD(G)/3478 dated 6th November, 2014 hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Goa for investigation only into the illegal export of iron ore of the State of Karnataka from Panji and Mormugao Ports.

[F.No. 228/18/2014-AVD-II]

SUSHEEL KUMAR, Under Secy.

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 280.**—केन्द्रीय सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 2जी स्पैक्ट्रम से संबंधित आरसी 24(ए)/2011-डीएलआई तथा अन्य मामलों में श्री सुनील भारती मिश्र द्वारा दायर एसएलपी (सीआरएल) याचिका सं. 2961/2013 एवं श्री रवि कान्त एन. रूईया द्वारा दायर एसएलपी (सीआरएल) याचिका सं. 3161/2013 में भारत के सर्वोच्च न्यायालय में पेश होने के लिए, श्री के.के. वेणुगोपाल, वरिष्ठ अधिवक्ता तथा उनके कनिष्ठ श्री गोपाल शंकरनारायणन, अधिवक्ता को विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 225/30/2013-एवीडी-II]

सुशील कुमार, अवर सचिव

New Delhi, the 16th February, 2015

**S.O. 280.**—In exercise the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri K. K. Venugopal, Sr. Advocate and his Junior Shri Gopal Shankarnarayanan, Advocate, as Special Public Prosecutor for appearing in Supreme Court of India in SLP (Cr.) Petition No. 2961/2013 filed by Shri Sunil Bharti Mittal and SLP (Cr.) Petition No. 3161/2013 filed by Ravi Kant N. ruia in RC 24(A)/2011-DLI and in other matters relating to 2G Spectrum.

[F.No. 225/30/2013-AVD-II]

SUSHEEL KUMAR, Under Secy.

### नागर विमानन मंत्रालय

( एएआई अनुभाग )

नई दिल्ली, 5 फरवरी, 2015

**का.आ. 281.**—दिनांक 3 मार्च, 2010 के सा.आ. 172 के अनुक्रम में केंद्र सरकार एतद्द्वारा श्री सुधीर रहेजा को वेतनमान रु. 75000—1,00,000 सदस्य (योजना), भारतीय विमानपत्तन प्राधिकरण, के पद पर उनका कार्यकाल 17.02.2015 से 30.06.2018 अर्थात् उनकी अधिवर्षिता की तिथि तक, या अगले आदेश तक, जो भी पहले हो, तक बढ़ाती है।

[सं. एवी-24011/3/2008-एएआई]

के. वी. उन्नीकृष्णन, अवर सचिव

### MINISTRY OF CIVIL AVIATION

(AAI Section)

New Delhi, the 5th February, 2015

**S.O. 281.**—In continuation of S.O. 712 dated 3rd March, 2010, the Central Government hereby extend the

tenure of Shri Sudhir Raheja as Member (Planning), Airports Authority of India in the scale of pay of Rs. 75000—1,00,000 beyond 17.2.2015 till 30.6.2018, i.e. the date of superannuation, or until further orders, whichever is earlier.

[No. AV-24011/3/2008-AAI]

K. V. UNNIKRISHNAN, Under Secy.

### स्वास्थ्य एवं परिवार कल्याण मंत्रालय

( दंत चिकित्सा विभाग )

नई दिल्ली, 9 फरवरी, 2015

**का.आ. 282.**—दंत चिकित्सा अनुभाग, 1948 (1948 का 16) की धारा 3 के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, एतद्द्वारा स्वास्थ्य एवं परिवार कल्याण मंत्रालय की अधिसूचना सं. एसओ 430 दिनांक 24 जनवरी, 1984 में निम्नलिखित संशोधन करती है, नामतः—

उक्त अधिसूचना में क्रमांक 4 और उससे संबंधित प्रविष्टियों के लिए “धारा 3 के परंतुक के साथ पठित खण्ड (क) के अंतर्गत चयनित” शीर्षक के अंतर्गत इसमें निम्नलिखित प्रतिस्थापित किया जाता है, नामतः

“4 डॉ. जनक राज सबरवाल चयनित दिल्ली दंत परिषद् 02.01.2015”  
सी-214, विकास पुरी,  
नई दिल्ली-110018

[फा. सं. वी-12025/23/2007-डीई]

सुधीर कुमार, अवर सचिव

### MINISTRY OF HEALTH AND FAMILY WELFARE

(Dental Education Section)

New Delhi, the 9th February, 2015

**S.O. 282.**—In exercise of the powers conferred under Section 3 of the Dentists Act, 1948 (16 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Health and Family Welfare No. S.O. 430 dated 24th January, 1984 namely :

In the said notification under head “Elected under clause (a) read with proviso to Section 3” for serial No. 4 and the entries relating thereto, the following shall be substituted therein, namely :—

“4. Dr. Janak Raj Elected Delhi Dental 2.1.2015”  
Sabharwal Council  
C-214, Vikas Puri,  
New Delhi-110018

[F.No. V-12025/23/2007-DE]

SUDHIR KUMAR, Under Secy.

**पेट्रोलियम और प्राकृतिक गैस मंत्रालय**

नई दिल्ली, 4 फरवरी, 2015

**का.आ. 283.**—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग का अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में उक्त अधिनियम के अधीन आंध्र प्रदेश के राज्य के भीतर आंध्र प्रदेश गैस वितरण निगम लिमिटेड की सभी पाइपलाइनों के लिए, सक्षम प्राधिकारी के कार्यों का निर्वहन करने के लिए श्रीमती एन. सुगुना कुमारी, डिप्टी कलेक्टर, आंध्र प्रदेश सरकार, को दिनांक 4.2.2015 से प्राधिकृत करती है।

[फा. सं. एल-14014/3/2015-जीपी-II]

के. एम. सिंह, अवर सचिव

**MINISTRY OF PETROLEUM AND NATURAL GAS**

New Delhi, the 4th February, 2015

**S.O. 283.**—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby authorizes Smt. N. Suguna Kumari, Deputy Collector, Government of Andhra Pradesh to perform the functions of Competent Authority for all pipelines of Andhra Pradesh Gas Distribution Corporation, under the said Act, within Andhra Pradesh State with effect from 4.2.2015.

[F.No. L-14014/3/2015-GP-II]

K. M. SINGH, Under Secy.

**उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय**

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 284.**—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 6 के उप-विनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है :-

**अनुसूची**

भारतीय भाग मानक संख्या	भाग	अनु-भाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क बड़े पैमाने पर	मुहरांकन शुल्क छोटे पैमाने पर	इकाई दर स्लैब 1 (रु.)	स्लैब में इकाईयां	शेष	प्रचालन तिथि
1	2	3	4	5	6	7	8	9	10	11	12
990	-	-	1982	चम्मच, स्टेनलेस स्टील	100 पीस	55200	46900	2.00	-	-	13.8.2014
1109	-	-	1980	बोरेक्स के लिए विशिष्टता (दूसरा पुनरीक्षण) द्वितीय संशोधन	टन	34000	29000	85.00	-	-	31.7.2014
5405	-	-	1980	खाद्य पदार्थों और पशु आहार के खमीर और फफूंदी गणन के लिए पद्धति (पहला पुनरीक्षण)	1000 पीस	34000	29000	10	-	-	28.7.2014
10245	3	-	1999	श्वसन उपकरण भाग 3 ताजी हवा के हौज और संपीड़ित हवा के श्वसन उपकरण विशिष्ट (पहला पुनरीक्षण)	1 श्वसन उपकरण	71000	60400	200	-	-	4.9.2014
12950	-	-	1990	बैटरी हाइड्रोमीटर -सीमा - अम्ल बैटरियों के लिए सुवाह्य सिरिज - विशिष्ट	100 पीस	39400	33500	16	-	-	25.6.2014
14203	-	-	1999	अग्नि प्रतिरोधी अभिलेख संरक्षण केबिनेट - विशिष्ट (पहला पुनरीक्षण)	1केबिनेट	79000	67000	56	-	-	24.6.2014

1	2	3	4	5	6	7	8	9	10	11	12
14261	-	-	1995	संचरण युक्तियां - वी-पट्टे औद्योगिक प्रयोजनों के लिए सिराहीन संकीर्ण वी-पट्टे - विशिष्ट	100पीस	34000	29000	60	-	-	17.11.2014
15073	2	-	2008	विद्युत डेटांनेटरों की पैकिंग भाग 2 नालीदार फाइबरबोर्ड केस	100 बक्से	71000	60000	10	-	-	13.10.2014
15961	-	-	2012	तप्त निमज्जी एल्यूमिनियम-जिंक मिश्रधातु लेपित इस्पात पती एवं चादरें सादा	1 मी. टन	48300	41000	120	-	-	10.03.2014
15962	-	-	2012	भवनों एवं उन्नत भूकम्पीय प्रतिरोधिता वाली संरचनाओं के लिए संरचना इस्पात	1 मी. टन	34600	29400	62	-	-	1.8.2014
16014	-	-	2012	यांत्रिक पद्धति से बुनी दोहरी ऐंठित, षटकोणीय तार मैश गेबियन, रिबेट मैट्रेस एवं रॉक फॉल नैटिंग जस्तीकृत इस्पात तार	100 किग्रा.	81500	69300	15.28	-	-	28.3.2014
16098	2	-	2013	गैर दबाव जल निकासी और सीवरेज के लिए संरचित दीवार प्लास्टिक पाइपिंग पद्धतियां - विशिष्ट भाग 2 गैर चिकनी बाहरी सतह के साथ पाइप और फिटिंगें, टाइप बी	100 मीटर	197000	167450	23.00	-	-	5.8.2014
आई एस/ - आई एस ओ 6722	-	-	2006	सड़क वाहन - 60 वोल्ट एकल; कोर की तारें - आयाम, परीक्षण एवं आवश्यकताएं	100 मीटर	50000	40000	3.60	-	-	1.12.2014

[सं. सीएमडी-2/जी-18]

एम. जे. जोसफ, महानिदेशक

**MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION****(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 18th February, 2015

**S.O. 284.**—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule:

**SCHEDULE**

IS No.	Part	Sec	Year	Product	Units	Minimum Marking Fee (Rs)		Unit Rate (Rs) Slab-1	Units in Slab-1	Remaining	Effective Date
						Large Scale	Small Scale				
1	2	3	4	5	6	7	8	9	10	11	12
990	-	-	1982	Spoons, Stainless Steel	100 Pieces	55200	46900	2.00	-	-	13.08.2014

1	2	3	4	5	6	7	8	9	10	11	12
1109	-	-	1980	Borax	Ton	34000	29000	85.00	-	-	31.07.2014
5405	-	-	1980	Sanitary napkins	1000 pieces	34000	29000	10	-	-	28.07.2014
10245	3	-	1999	Breathing Apparatus – Part 3 Fresh Air Hose And Compressed Air Line Breathing Apparatus - Specification	1 Breathing Apparatus	71000	60400	200	-	-	04.09.2014
12950	-	-	1990	Battery Hydrometer for lead acid batteries	100 pieces	39400	33500	16	-	-	25.06.2014
14203	-	-	1999	Fire Resisting Records Protection Cabinet	1 Cabinet	79000	67000	56	-	-	24.06.2014
14261	-	-	1995	Transmission Devices- V-Belts-Endless Narrow V-Belts for Industrial use	100 Pieces	34000	29000	60	-	-	17.11.2014
15073	2	-	2008	Packaging of electric detonators-Corrugated Fiber board cases	100 Boxes	71000	60000	10	-	-	13.10.2014
15961	-	-	2012	Hot dip Aluminum Alloy Metallic Zinc Alloy Coated Steel Strip and Sheet (Plain)	1 MT	48300	41000	120	-	-	10.03.2014
15962	-	-	2012	Structural Steels for Building and Structures with Improved Seismic Resistance	1 MT	34600	29400	62	-	-	01.08.2014
16014	-	-	2012	Mechanically woven, double -twisted, hexagonal Wire Mesh Gabions, Revet Mattresses and Rock fall Netting (Galvanized steel wire or Galvanized steel wire with PVC coating)	100 Kg	81500	69300	15.28	-	-	28.03.2014
16098	2	-	2013	Structured-Wall Plastics Piping Systems for Non-Pressure Drainage and Sewerage Part 2 Pipes and Fittings with Non-Smooth External Surface, Type B	100 Meters	197000	167450	23.00	-	-	05.08.2014
IS/ISO 6722	-	-	2006	Road Vehicles – 605 and 600 V Single – Core Cables – Dimensions, Test Methods and Requirements	100 Meters	50000	40000	3.60	-	-	01.12.2014

[No. CMD-II/G-18]

M. J. JOSEPH, Director General

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 285.**—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 6 के उप-विनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है :-

**अनुसूची**

भारतीय भाग	अनु-भाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क	इकाई दर	स्लैब में	शेष	प्रचालन		
मानक संख्या					बड़े पैमाने पर	छोटे पैमाने पर	स्लैब 1 इकाईयां (रु.)		तिथि		
1	2	3	4	5	6	7	8	9	10	11	12
2573	-	-	1986	चमड़े के दस्ताने एवं दस्ताने (दूसरा पुनरीक्षण)	एक जोड़ा	40700	32600	0.2	-	-	26.12.2014
5915	-	-	1980	एकल गठन वाले रबरीकृत जलसह फैब्रिक की विशिष्टि	एक वर्ग मी.	62100	49700	0.38	-	-	26.12.2014

[सं. सीएमडी-2/जी-18]

एम. जे. जोसफ, महानिदेशक

New Delhi, the 18th February, 2015

**S.O. 285.**—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule:

**SCHEDULE**

IS No.	Part	Sec	Year	Product	Units	Minimum Marking Fee		Unit Rate Slab	Units in Slab-1	Remaining	Effective Date
						Large Scale	Small Scale				
1	2	3	4	5	6	7	8	9	10	11	12
2573	-	-	1986	Leather Gauntlets and Mittens	1 Pair	40700	32600	0.2	-	-	26.12.2014
5915	-	-	1970	Single Texture Rubberized Waterproof Fabrics	1 Sq. Meter	62100	49700	0.38	-	-	26.12.2014

[No. CMD-II/G-18]

M. J. JOSEPH, Director General

**श्रम एवं रोजगार मंत्रालय**

नई दिल्ली, 9 फरवरी, 2015

**का.आ. 286.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 05/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/02/2015 को प्राप्त हुआ था।

[सं. एल-20012/85/2012-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 9th February, 2015

**S.O. 286.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of M/s. B.C.C.L. and their workmen, received by the Central Government on 09/02/2015.

[No. L-20012/85/2012-IR(CM-I)]

M. K. SINGH, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD****PRESENT :** Shri Kishori Ram, Presiding OfficerIn the matter of an Industrial Dispute under Section  
10(1)(d) of the I.D. Act, 1947**REFERENCE NO. 05 OF 2013****PARTIES :** The General Secretary,  
Sampurn Bharat Coking Coal Limited,  
Chalak Samiti, PO: Bhagabandh  
Dhanbad

Vs.

General Manager (P & IR)  
M/s Bharat Coking Coal India Ltd.,  
At/PO : Koyla Nagar, DhanbadMinistry's Order No L-20012/85/2012-  
IR(CM-I) dt. 27.12.2012**APPEARANCES :**

On behalf of the workman/Union : None

On behalf of the Management : None

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 17th Dec., 2014

**AWARD**The Government of India, Ministry of Labour, in  
exercise of the powers conferred on them under Sec.10 (1)  
(d) of the I.D. Act., 1947 has referred the following dispute  
to this Tribunal for adjudication vide their Order No L-  
20012/85/2012-IR(CM-I) dt. 27.12.2012.**SCHEDULE**“Whether the action of the Management of M/s  
BCCL in not supplying shoes, uniforms to the Drivers  
and Peons of Collieries/Area other than BCCL HQ is  
legal and justified? To what reliefs are the concerned  
workmen entitled?”2. Neither the Union Representative for the Sampurn  
Bharat Coking Coal Limited Chalak Samiti, Bhagandh  
Basti, Dhanbad, nor any Representative for the OP/  
Management nor any written statement filed on behalf of  
the latter.On perusal of the case record, it is quite clear that  
the case has been all along pending for the appearance of  
the Union Representative for the Union as well as the  
workman concerned and for filing a written statement cum  
Rejoinder on behalf of the Management for which both  
the parties were issued three Regd. notices dt. 6.3.13,  
28.01.2014 and lastly on 30.05.2014 on the addresses of  
both the parties as noted the Reference itself. It also  
appears that once the concerned workman himself hadappeared and filed the written statement on his behalf on  
26.4.13 and since thereafter, neither the Union  
Representative nor the workman appeared in this case  
which related to an issue over non-supply of the Shoes  
and Uniforms to the Drivers and the peons of the Collieries/  
Area other than the BCCL HQR. The Union Representative  
as well as the OP/Management by their conducts appear  
to be quite reluctant in pursuing the case up to its final  
disposal. In such circumstances, it appears to be no longer  
any industrial Dispute existing. Hence, the case is closed  
accordingly, and it is passed an order of ‘No Dispute  
Award’.

KISHORI RAM, Presiding Officer

नई दिल्ली, 9 फरवरी, 2015

**का.आ. 287.**—औद्योगिक विवाद अधिनियम, 1947 (1947  
का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ब्रिटिश एयरवेज  
के प्रबंधन के संबंध में केन्द्रीय सरकार ब्रिटिश एयरवेज  
के प्रबंधन के संबंध में केन्द्रीय सरकार औद्योगिक  
अधिकरण/श्रम न्यायालय नं. 2, दिल्ली के पंचाट (संदर्भ संख्या  
127/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को  
09/02/2015 को प्राप्त हुआ था।

[सं. एल-11012/46/2005-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th February, 2015

**S.O. 287.**—In pursuance of Section 17 of the  
Industrial Disputes Act, 1947 (14 of 1947), the Central  
Government hereby publishes the Award (Ref. No. 127/  
2005) of the Central Government Industrial Tribunal-cum-  
Labour Court No. 2, Delhi as shown in the Annexure in the  
Industrial Dispute between the management of M/s. British  
Airways and their workmen, received by the Central  
Government on 09/02/2015.

[No. L-11012/46/2005-IR(C-I)]

M. K. SINGH, Section Officer

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT - II, KARKARDOOMA  
COURT COMPLEX, DELHI****Present :** Shri Harbansh Kumar Saxena**ID No. 127/2005**Ms. Rachna Verma,  
C-822-A, Sushant Lok-I,  
Gurgaon, Haryana**Versus**British Airways,  
11th floor, Gopal Das Bhawan,  
Barakhamba Road,  
New Delhi-110001.



**AWARD**

The Central Government in the Ministry of Labour vide notification No L-11012/46/2005-IR(C-I) dated 6.12.2005 referred the following industrial Dispute to this tribunal for adjudication:-

“Whether the action of the management of British Airways, 11th floor, Gopaldas Bhawan, Barakhamba Road, New Delhi in terminating the services of Ms. Rachna Verma, Message Editing Scriptor w.e.f. 12.8.2004 is just, fair and legal? If not, to what relief is the workman entitled?”

On 19/12/2005 reference was received in this tribunal. Which was register as I.D No. 127/2005 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

**Claimant/workman on 17.03.2006 filed Claim Statement. Wherein she stated as follows:-**

**It is respectfully submitted as under:**

1. That the present industrial dispute has been referred for adjudication by the Government before this Hon'ble Tribunal with the following terms of reference.

“Whether the action of the management of British Airways, 11th floor, Gopaldas Bhavan, Barakhamba Road, New Delhi in terminating the services of Ms. Rachna Verma, Message Editing Scriptor, w.e.f. 12.08.2004 is just fair and legal? If not, to what relief is the workman entitled?”

2. That the workman had joined the services of the management on 21.2.1994 and since then she has served in various positions and departments. She initially joined the management as International Tele-Sales Support Clerk and was last promoted to the position of Message Editing Scriptor with effect from 19.6.2000. The service record of the workman has been quite impressive and commendable. The workman was earning appreciations from the management from time to time for the quality of her work and has even earned the prestigious British Airways Award of Excellence. Despite all this the services of the workman were terminated illegally in the most uncereceremonious manner by the management vide letter dated 12th Aug 2004.
3. The management is a Multi National Foreign Airlines having registered under the Indian Companies Act to operate its business in India and is involved in the business of running of an airline commonly known as British Airways. The said airline operates flights all over the world including from and to New Delhi.

4. THE WORKMAN THROUGHOUT HER PERIOD OF EMPLOYMENT WITH THE MANAGEMENT WAS EMPLOYED IN JOBS THAT INVOLVED WORKING ON THE COMPUTER SYSTEM FOR MORE THAN EIGHT HOURS EVERY DAY. All the jobs required the workman to extensively use the computer keyboard, sitting on a uncomfortable chair provided to her by the management. The furniture provided to the staff working on the computers especially the workman since the date of her joining the employment of the management was ill designed and did not conform to the advisable ergonomically standards. Rather the furniture and the workstations were so designed that they are a health hazard for the employees.
5. The workman joined the services of the management at Delhi on 21st Feb1994. The workman was deployed as International Tele-Sales Support Clerk by the management on 21st Feb1994 AFTER A COMPLETE FITNESS/MEDICAL CHECK UP DONE BY DOCTORS APPOINTED BY THE BRITISH AIRWAYS. The workman joined the services at the office situated at Connaught Place, New Delhi.
6. The workman on a typical day would work for 10 hour out of which more than nine hours were spent working before computer. THE WORKMAN HAD WORKED WITH THE MANAGEMENT FOR 10 YEARS CONTINUOUSLY.
7. On 19-6-2000, she was promoted to the post of message editing scriptor. The workman worked arduously for odd hours for the various projects. FOR EXAMPLE, SHE WORKED MORE THAN 100 HOURS (in a month) OF OVERTIME FOR ONE OF THE PROJECTS IN MID 2002. THUS THERE WAS MINIMAL REST BETWEEN THE SHIFTS. In spite of her ill health she continued to work hard and deliver highly successful projects and has been given numerous letters of commendation for the same. She worked over weekends at very short notice to deliver critical projects for British Airways. Till her last day in office, she tried to find solutions to difficult projects and delivered high quality work.
8. That the workman suffered bad health and injuries as a direct result and consequence of the bad working conditions provided by the management.
9. That the management had made up its mind to victimize the workman as they considered her useless for the company, they just wanted to discard her from the services without any legal benefits.
10. The HRD manager of the management Mr. Cyril Daniels in very clear terms asked workman to resign and accept the VRS without any further delay. THE WORKMAN WAS THREATENINGLY ASKED TO



ACCEPT PREMATURE RETIREMENT AND NOT TO THINK OF TAKING ON THE MIGHT OF THE MANAGEMENT WHO ON THE STRENGTH OF THEIR FINANCIAL ADVANTAGE WOULD BE ABLE TO SUSTAIN ANY LITIGATION that workman might decide to pursue against them.

11. The management had illegal terminated the services of the workman. The management was bent upon victimizing the workman. The workman prior to her termination was asked to work during odd working hours and night shifts which was not acceptable to the workman. The management had intentionally forced upon the workman a female to work at night shifts, which was not acceptable to the workman due to her family reasons. The management had intentionally victimized the workman and terminated her services.
12. The attitude of the management smacks of mala fide and it is clear that the management had singled out the workman and victimized her for no fault of hers.
13. That the management thereafter illegally terminated the services of the workman without following the due process of law. She was victimized and illegally retrenched without any cause.

#### PRAYER

The workman respectfully prays for adjudication of the present industrial dispute and seeks directions/award for re-instatement of the workman in the services of the management with full back wages (with interest) from the date of termination till date of re-instatement.

**Against Statement of Claim Management filed Written statement on 11.5.2006. Wherein it stated as follows:-**

**Most respectfully sheweth:**

1. That Ms. Rachna Verma (hereinafter referred to as the workman) was employed with the management at DLF Plaza Tower, DLF City Phase 1, Gurgaon in the state of Haryana. The services of the workman were terminated at Gurgaon which was the situs of her employment. No cause of action or any alleged industrial dispute was either apprehended or arose within the NCT of Delhi. The order of reference made by the Central Government to this Hon'ble Court is therefore incompetent and bad in law.
2. That the workman has raised a dispute and challenged the termination of her services was illegal and unjustified which has been referred for adjudication at her instance. It is for the workman to prove as to how the termination of her services is either illegal or unjustified. The Central Government, however whilst referring the above dispute for adjudication has placed the burden on the management to prove that the termination of the services of the workman is just, fair and legal. It is submitted

that the order of reference is incompetent and bad in law on this ground as well.

Subject to and without prejudice to the foregoing preliminary objections which are without prejudice to each other para wise on behalf of the management to the statement of claim is given hereunder:

#### REPLY ON MERITS:

1. The contents of para 1 subject to the preliminary objections are a matter of record.
2. The contents of para 2 are admitted to the extent that the workman was appointed as an International Telesale Support clerk in the establishment of the management at DLF Centre, Sansad Marg, New Delhi w.e.f. Feb 21, 1994. And was promoted as Message Editing Scriptor (QIK Scriptor) with effect from June 19, 2000. The contention of the workman that her services were terminated illegally and unceremoniously is misconceived, baseless and incorrect. It is submitted that the services of the workman were terminated in accordance with law. The management would refer to the service record of the workman in the succeeding paras.
3. The contents of para 3 are not admitted as stated. It is submitted that M/s British Airways plc is registered in England and is an international airlines having worldwide operations. M/s British Airways has set up its business in several countries and the controlling office of South Asia of British Airways is at DLF Plaza Tower, DLF City Phase 1, Gurgaon in the state of Haryana. As pointed out above the workman was working in the office of British Airways at Gurgaon in the state of Haryana.
- 4 to 8. The contents of paras 4 to 8 are not admitted as stated. The correct facts, inter alia, are:
  - i) The workman was appointed as an International Telesale Support at DLF Centre, Sansad Marg, New Delhi in terms of letter of appointment dated February 21, 1994 and she was confirmed in service with effect from May 21, 1994 as ITSS Clerk.
  - ii) In the year 1998, a vacancy of Message Editing Scriptor (QIK Scriptor) arose. The job of a Message Editing Scriptor (QIK Scriptor) involves working extensively on computers. The workman applied for this post and she was fully aware of the job description and responsibilities of a QIK Scriptor. She was called for a written test and interview and was short listed but was not selected.
  - iii) It is submitted that again in the year 2000, there was a vacancy of Message Editing Scriptor (QIK Scriptor) arose and the workman again applied in response to the same. She had appeared in the written test as well as interview and was short listed in the final round of selection process for the post of QIK Scriptor. She was found suitable and appointed as a

QIK Scriptor - Message Editing Scriptor with effect from June 19, 2000 and was upgraded and placed in Grade D.

- iv) It may be pertinent to point out that the job of a Message Editing Scriptor (QIK Scriptor) involves working extensively on computers. The workman was fully aware of the job description and responsibilities of a QIK Scriptor.
- v) It is submitted that the workman had taken a conscious decision to apply for the post of QIK Scriptor not once but twice and she had herself offered to work as a QIK Scriptor in a higher grade obviously for her own better prospects.
- vi) The workman in para 4 of the statement of claim has contended that during the entire tenure of her employment the jobs on which she was employed working on the computer system. It is submitted that working on a computer is a necessary concomitant of any job in the office these days. The benefits of working on a computer are immense and well known and acknowledged. Obtaining and disseminating any information and data or communication through electronic media with the help of computers is quick and even immediate. It saves a lot of time and energy of the employees and improves the efficiency.
- vii) It is submitted that more than 130 employees are working in the office of the management at the DLF Plaza Tower, DLF Qutab Enclave, Phase I at Gurgaon where the workman was last employed. It is submitted that each employee has a separate computer and work station. All employees work on computers and the workman was no exception.
- viii) The workman has tried to make out a case that her ill health is attributable to extensively working on computers. It is also the contention of the workman that the furniture provided to the staff for working on computers was ill designed and did not conform to the advisable ergonomical standards. The workman has also contended that the furniture and workstations were so designed that they were a health hazard for the employees.
- ix) It is submitted that all the contentions raised by the workman referred to above are baseless and incorrect. It is submitted that the working conditions of the employees in our establishment are one of the best in the country. It may be pertinent to point out that the management had re-located its office from DLF Centre, Sansad Marg, New Delhi to its present location at DLF Plaza Tower, DLF Qutab Enclave, Phase 1, Gurgaon in April 1999. All the employees who were residing at Delhi were paid a lump sum amount of Rs. 50,000/- each at that time. In addition

to that the management had made transport arrangements to pick up the employees and to drop them at fixed points as agreed.

- x) It may be pertinent to point out that the furniture, work stations and the working conditions of the employees while they were employed at DLF Centre, Sansad Marg, New Delhi and thereafter at DLF Plaza Tower, DLF Qutab Enclave, Phase 1, Gurgaon were all excellent.
- xi) It is submitted that the furniture and other equipments in the office are designed in such a manner that it not only increases the efficiency of the employees but simultaneously provides comfort to them at their workstations. Needless to mention that efficiency of a person has a direct nexus with the working environment and conditions. International norms were followed while designing the work stations and all contentions to the contrary raised by the workman in the statement of claim are clearly by way of an afterthought and impelled by some ulterior motives.
- xii) It may also be pertinent to point out that the workman was not the only employee who was working as a message editing scriptor (QIK Scriptor). It is submitted that there is a team of 7 staff members including the workman which constituted the QIK team roster. The nature of duties being performed by the workman and the remaining six staff members are not only similar but substantially the same. No other staff member employed as Message Editing Scriptor (QIK Scriptor) ever complained about the working conditions or any defect in the furniture or work stations as alleged by the workman. The allegations made by the workman are false to her knowledge and without any truth or substance.
- xiii) On a consideration of the facts explained above your good self would appreciate that the contention of the workman that her ill health was a direct result and consequences of the bad working conditions provided by the management is on the face of it baseless and incorrect. It is wrong to contend that the working conditions in our organization were/are in any manner instrumental for the continued ill health of the workman. It is also wrong to contend that the claimant was required to work for 10 hours out of which more than 9 hours were spent working before a computer. It is also wrong to contend that she worked for more than 100 hours on overtime for one of the projects in the year 2002.
- xiv) It is submitted that continued ill health of the workman is a special problem peculiar to a particular individual. As already pointed out all the staff members in the office work on computers and as

many as 6 other staff members are doing similar work as QIK Scriptor which was performed by the workman. It is rather unfortunate that the workman is suffering from continued ill health but is totally misconceived and baseless on her part to contend that the working conditions in the organization are in any manner responsible for her continued ill health.

- xv) It is submitted that the workman on account of her continued ill health was not able to report for duties and to perform the work for which she was employed. The management had discussed about ill health of the workman with her on several occasions. During the course of discussions it became evident that the workman was not physically fit to perform the job on which she was employed and the workman very fairly conceded the fact. All other contentions raised by the workman in paras under reply are wrong and therefore denied.

9. The contents of para 9 are misconceived and therefore denied. It is wrong to contend that the management had made up its mind to victimize the workman. It is also wrong to contend that the management wanted to discard the workman from service without any legal benefits. The management had made sincere efforts to accommodate the workman but the workman on account of her continued ill health was not able to perform the job on which she was employed.

10. The contents of para 10 are misconceived, wrong and therefore denied. It is wrong to contend that Mr. Cyril Daniels asked the workman to resign and accept the VRS without any further delay. It is also wrong to contend that the workman was threateningly asked to accept premature retirement. All other contentions raised by the workman in para under reply are wrong and therefore denied.

11. The contents of para 11 are misconceived, wrong and therefore denied. It is wrong to contend that the management had illegally terminated the services of the workman. It is also wrong to contend that the management was bent upon victimizing the workman. It is submitted that the workman was not physically and medically fit to perform the job on which she was employed. The management however in order to accommodate the workman offered her employment in the customer service department where the computer related work was minimum. The management had given this offer to the workman in writing by letter dated June 2, 2004. It is submitted that the workman by her e.mail dated June 23, 2004 declined the offer of re-deployment in the customer service department. The management under these circumstances was thus left with no alternative but to terminate the services of the workman in accordance with the terms and conditions of her employment. The services of the workman were accordingly terminated by letter dated Aug 12, 2004 on

account of her continued ill health. It may be pertinent to point out that the management had informed the workman that her salary would be protected on her re-deployment in the customer service department but despite these the workmen declined the offer of alternative employment given by the management. All other contentions raised by the workman in para under reply are wrong and therefore denied.

12. The contents of para 12 are misconceived, wrong and therefore denied. It is wrong to contend that the attitude of the management smacks of malafides or that the workman had been singled out and victimized. The facts and circumstances leading to the termination of the services of the workman have been set out herein above and on a perusal of the same this Hon'ble Court would be pleased to note that the decision of the management to terminate the services of the workman was eminently justified and bonafide. The allegation of the workman regarding victimization is without any truth or substance.

13. The contents of para 13 are misconceived, wrong and therefore denied. It is wrong to contend that the management had illegally terminated the services of the workman following the due process of law. It is reasserted and reaffirmed that the services of the workman were terminated in accordance with law and the order dated August 12, 2004 terminating the services of the workman does not suffer from any infirmity as alleged or at all. It is wrong to contend that the termination of the services of the workman amounts to retrenchment. As already pointed out the services of the workman were terminated on account of continued ill health which is not retrenchment. It may be pertinent to point out that after the termination of the services of the workman she had settled all her legal dues in full and final and following terminal benefits which were paid to her on March 30, 2005".

i)	PF accumulations	Rs. 6,93,465.37
ii)	Pension Fund	Rs. 1,08,097.09
iii)	Gratuity	Rs. 1,38,346.00

It is submitted that the workman after receipt of the above dues has raised the above dispute clearly by way of an afterthought and with some ulterior motives. The demand of the workman for reinstatement is misconceived and not tenable either on facts or in law. The workman is not physically and medically fit to perform the job on which she was employed and the workman had refused the offer of alternative employment. The dispute raised by the workman is totally false, frivolous and baseless. The workman is not entitled to any relief much less the relief of reinstatement with full back wages or otherwise.

It is therefore, most respectfully prayed that this Hon'ble Court may most graciously be pleased to pass accordingly.

**Reply of the written statement on the behalf of the workman filed rejoinder on 12.8.2006 . Wherein she stated as follows:-**

1. That the contents of the para 1 of the preliminary objections is specifically denied. It is denied that no cause of action or an industrial disputes has arisen within NCT of Delhi and that the order of reference made by Central Government to this Hon'ble court is therefor, in competent and bad in law.

It is submitted that the workman was employed with the management on 21.02.1994 at Delhi as International Tele Sales Supports Clerk at its New Delhi Office. Since, then she has served in various positions in department within British Airways in Delhi as well as Gurgaon, as and when directed by the authorities . It is a matter of record that her salary was being processed and paid out from Delhi Office of the management. Her terminal dues at the time of the termination were also paid from the Delhi office of the management. Including the notice pay paid along with the letter of termination dated 12th August, 2004. Even her provident and gratuity accounts were maintained at Delhi, and the same were paid out to the workman from the Delhi office of the Management.

2. That the contents of para 2 of the preliminary objection are wrong and denied. It is specifically denied that the order of reference as made by the appropriate Government is incompetent and bad in law as alleged. It is submitted that the termination of the services of the workman was done in an illegally manner without following the due process of law. It is for the management to establish its bona fide and jurisdiction of the termination of services of the workman. The terms of reference made by the appropriate Government for adjudication before this Hon'ble Tribunal are correct.

**Rejoinder on Merits**

1. As the contents of para 1 of the claim has not been denied and the same needs no reply.

2. That the contents of the para 2 of reply on merits are not denied to the extent of what has been specifically admitted however, rest of the para is wrong and denied. It is specifically denied that the services of the workman were terminated in accordance with law.

3. That contents of para 3 of reply on merits are incorrect and hence denied. It is a matter of record that the Principal Place of business of the management is located at Delhi. The same is evident from the records of the office of ROC as well as DGCA. The management be subjected to strict proof of the averment made by them in the present para.

4-8. That the contents of para 4-8 of reply on merits are wrong and denied and that of corresponding para of the claim are reiterated and reaffirmed as correct.

(i-iv) That the contents of sub-para 1-4 are not denied as the same being matter of record. It is however, necessary to point out here . The workman throughout her period of employment with the management was employed in jobs that involved working on the Computer system for more than eight hours every day. All these jobs required the workman to extensively use the computer keyboard, sitting on a chair provided to her by the management. The furniture provided to the staff working on the computers especially the present workman since the date of her joining the employment of the management was ill designed and did not conform to the advisable ergonomically standards. Rather the furniture and the work stations were so designed that they are a health hazard for the employees. Further the workman worked continuously for odd hours for the various projects and there had been minimal rest between the shifts, which laid to the ill health of the workman. However, in spite of that she continued hard work and delivered good results. This is evident from the various appreciation letters given to the workman by the management. The workman number of times pointed out to the management about the hazards working condition. However, in spite of various requests the management completely failed to do the needful which further led to the deterioration of health of the workman.

(v-viii) That the contents of the para (v-viii) are wrong and specifically denied. That the contents of para i to iv above may also read as part and parcel of present para. It is submitted that the work stations provided by the management are ill-design and did not confirm to advisable agronomical standards due to which many employees working with the management have suffered heath problems.

(ix-x) That the contents of para ix and x of the reply on merits are wrong and denied. It is specifically denied that the working conditions of employee in the establishment of workman situated at Gurgoan and Delhi are one the best country.

(xi) Contents of para xi of the reply on merits are wrong and denied. It is specifically denied that the furniture and other equipments in the office of management are designed in such a manner that it increases the efficiency of the employees and simultaneously provides comfort to them at their work station as alleged. It is also specifically denied that the contentions raised by the claimants in her statement of claim in this regard are clearly and after thought and impelled by some ulterior motive as alleged.



(xii) That the contents of para xii of the reply on merits are wrong and denied. It is specifically denied. That there is a team of seven staff members including the workman, which constituted the QIK Team Roster. It is submitted that when the workman was working QIK scripiter there were only three members of the team. The number of members was increase to seven as soon as the services of the workman were terminated which shows that the management is maliciously putting and the false statement and is trying the prejudice this Hon'ble Forum when in fact there was a huge work pressure on the workman and she along with two members were struggling to cope with the work of 7-8 peoples. This is evident from the fact that the workman did an over time of 100 hour in 2002 -2003 for the project involving the migration of Manx Airlines. It is submitted that the management use to threatening the staff members of termination due to which nobody else in QIK team use to raise a voice against the ill-working conditions and defect in furniture leading to bad work condition.

(xiii-xiv) The contents of para xiii-xiv are wrong and denied. The contents of paras herein above be also read as part and parcel or present para also.

(xvi) The contents of para xv of the reply are wrong and denied. It is submitted that as the workman was suffering from bad health and injuries due to the bad working conditions provided by the management. Instead of accommodating the workman the management victimized the workman and illegally terminated her services.

9. The contents of para 9 reply on merits are wrong and denied that of corresponding para of the statement of the claim are reiterated and reaffirmed as correct. It is however, specifically denied that the management had maintained sincere efforts to accommodate to the workman as alleged.

10. The contents of para 10 of reply on merits are wrong and denied that of corresponding para of the statement of the claim are reiterated and reaffirmed as correct. It is submitted that prior to termination the management tried to force workman to work during odd hours and night shifts on unsuitable job, which was not as per the qualification of the workman. The management did this intentionally in order to victimize the workman . Later on , the management unlawfully terminated the services of workman.

11. The contents of para 11 of reply on merits are wrong and are specifically denied and the contents of the corresponding para of the statement of the claim are reiterated and reaffirmed as correct.

12. The contents of para 12 of reply on merits are wrong and are specifically denied and the contents of the

corresponding para of the statement of the claim are reiterated and reaffirmed as correct.

13. The contents of para 13 of reply on merits are wrong and are specifically denied and the content of the corresponding para of the statement of the claim are reiterated and reaffirmed as correct. It is however, specifically denied that at the time of the termination of services of the workman all her legal dues were settled in full and final as alleged. It is necessary to mention that whatever payment was being forced upon workman at the time of the termination was accepted by her protest and without prejudice to her rights. That the workman reserves right to raise claim are her legal dues at and later stage as and when require and advised to her. It is, specially denied that the workman after receipt of above dues has raised the dispute clearly by way of an after thought and with some ulterior motives as alleged. It is also denied that the demand of the workman for reinstatement is misconceived and not tenable either on the facts or in law as alleged. It is also denied that the workman is not physically and medically fit to perform the job on which she was employed. It is also denied that the workman refuse the offer of alternative employment as alleged. It is also denied that the dispute raised by the workman is totally false, frivolous and baseless as alleged. It is also denied that the workman is not entitled to any relief much less the relief of reinstatement with full back wages and otherwise as alleged.

That the contents of prayer clause of the reply are wrong and denied that of corresponding of claim are reiterated and reaffirmed as correct.

My Ld. Predecessor proceeded on the basis of questions of determination mentioned in the schedule of reference when management moved an application for recasting of issues mentioned in it then my Ld. Predecessor on 12.08.2006 passed order on order sheet that relevant issues will be considered at the time of arguments and 21.12.2006 fixed for workman evidence.

**Workman in support of his case filed affidavit of WW1 Ms. Rachna Verma on 19.10.2006. Where-in she stated as follows:-**

1. That I am workman in the above industrial dispute as such I am well conversant with the facts and circumstances of the case and duly competent to swear this affidavit.

2. I Say that the present industrial dispute has been referred for adjudication by the Government before this Hon'ble Industrial Tribunal with the following terms of reference.

“Whether the action of the management of British Airways, 11th Floor, Gopaldas Bhawan, Barakhamba Road, New Delhi in terminating the services of Ms. Rachna Verma, Message Editing Scripiter w.e.f.

12.08.2004 is just, fair and legal? If not, to what relief is the workman entitled?"

3. I say that the Workman had joined the services of the management on 21.02.1994 at Delhi office. A copy of the appointment letter and contract of employment is exhibited herein as Exhibit Ww1/1 (colly) and since then she has served in various positions and departments of the management at Delhi as well as Gurgaon as and when directed by the management. The salary of the workman was being processed and paid from Delhi office of the management. The Provident fund and gratuity accounts were maintained and paid out to the workman from Delhi office. The documents pertaining to salary and gratuity and Provident fund are exhibited herein as exhibit WW1/2(colly). She initially joined the Management as an International Tele-Sales Support Clerk, and was last promoted to the position of Message Editing Scriptor with effect from 19.06.2000. A copy of Promotion letter is exhibited as exhibit WW1/3. The service record of the Workman has been quite impressive and commendable. The Workman has been earning appreciations from the management from time to time for the quality of her work and has even earned the prestigious British Airways Award of Excellence. THE COPY OF THE SAID AWARD AND OTHER APPRECIATION LETTERS/CARDS ARE EXHIBITED HEREIN AS EXHIBIT WW 1/4 (COLLY). Despite all this the services of the Workman were terminated illegally in the most unceremonious manner by the management vide letter dated 12th August, 2004. A copy of the termination letter is exhibited herein as Exhibit WW1/5(colly). The management issued a Cheque of Rs. 27837.40/- dated 11.8.2004 towards notice period. The said cheque was processed and issued by its Delhi office and was payable at Delhi. A copy of the remittance advice of the Delhi office of management and that of cheque is exhibited as Exhibit WW1/6(colly).

4. I say that the Management is a Multi National Foreign Airlines having registered under the Indian Companies Act to operate its business in India and is involved in the business of running of an Airline commonly known as the British Airways. The said Airline operates flights all over the world including from and to New Delhi.

5. I SAY THAT THE WORKMAN THROUGHOUT HER PERIOD OF EMPLOYMENT WITH THE MANAGEMENT WAS EMPLOYED IN JOBS THAT INVOLVED WORKING ON THE COMPUTER SYSTEM FOR MORE THAN EIGHT HOURS EVERY DAY. All these jobs required the Workman to extensively use the computer keyboard, sitting on an uncomfortable chair provided to her by the management. The furniture provided to the staff working on the computers especially the present Workman since the date of her joining the employment of the Management was ill designed and did not conform to the advisable ergonomically standards. Rather the

furniture and the work stations were so designed that they are a health hazard for the employees. THE WORKMAN WAS ASKED TO OPERATE TWO COMPUTERS AT ONE TIME AND THE WORK STATION WERE ILL DESIGNED. A PHOTOGRAPH OF THE WORK STATION IS EXHIBITED AS EXHIBIT WW 1/7.

6. I say that the workman joined the services of the management at Delhi on 21st February, 1994. The Workman was deployed as International Tele Sales Support Clerk by the management on 21st February, 1994 after a complete fitness/medical check up done by doctors appointed by the British Airways. The Workman joined the services at the office situated at Connaught Place, New Delhi.

7. I say that the Workman on a typical day would work for 10 hours out of which more than nine hours were spent working before a computer. The workman had worked with the management for 10 years continuously.

8. I say that on 19-6-2000, She was promoted to the post of Message Editing Scriptor. The workman worked arduously for odd hours for the various projects. For example, she worked more than 100 hours of overtime for one of the projects (in a month) in mid 2002. Thus there was minimal rest between the shifts. In spite of her ill health she continued to work hard and delivered highly successful projects and has been given numerous letters of commendation for the same. She worked over weekend at very short notice to deliver critical projects for British Airways. Till her last day in the office, she tried to find solutions to difficult projects and delivered high quality work.

9. I say that the workman suffered bad health and injuries as a direct result and consequence of the bad working conditions' provided by the management. The workman tried her best to point out the bad working conditions including bad work stations but management did not pay any heed to same. THE EMAILS OF WORKMAN IN THIS REGARD ARE EXHIBITED HEREIN AS EXHIBIT WW1/8(COLLY). THE MEDICAL CERTIFICATE OF THE DOCTOR SHOWING THE ILL HEALTH SUFFERED BY THE WORKMAN DUE TO NON CONDUCTIVE WORKING CONDITIONS IS EXHIBITED AS EXHIBIT WW1/9.

10. I say that the Management had made up its mind to victimize the Workman as they considered her useless for the company, they just wanted to discard her from the services without any legal benefits. The management in spite of the ill health of workman did not allow the workman to use her sick leaves and forced her to attend office when she was unwell and was not in a position to attend the office. THE EMAILS OF WORKMAN REQUESTING FOR SICK LEAVE AND REFUSAL OF MANAGEMENT IS EXHIBITED AS EXHIBIT WW1/10 (COLLY).



11. I SAY THAT THE HRD MANAGER OF THE MANAGEMENT MR. CYRIL DANIELS IN VERY CLEAR TERMS ASKED WORKMAN TO RESIGN AND ACCEPT THE VRS WITHOUT ANY FURTHER DELAY. THE WORKMAN WAS THREATENINGLY ASKED TO ACCEPT PREMATURE RETIREMENT AND NOT TO THINK OF TAKING ON THE MIGHT OF MANAGEMENT WHO ON THE STRENGTH OF THEIR FINANCIAL ADVANTAGE WOULD BE ABLE TO SUSTAIN ANY LITIGATION THAT WORKMAN MIGHT DECIDE TO PURSUE AGAINST THEM. The e-mails of Mr. Cyril Daniels in this regard are exhibited as Exhibit WW1/11 (colly).

12. I say that the Management had illegally terminated the services of the workman. The management was bent upon victimizing the workman. The Workman prior to her termination was asked to work during odd working hours and night shifts, which was not acceptable to the Workman. The Management had intentionally forced upon the workman a female to work at night shifts, which was not acceptable to the workman due to her family reasons. The management had intentionally victimized the workman and terminated her services. THE E-MAILS OF WORKMAN REQUESTING FOR ALTERNATIVE PLACEMENT WITHIN THE ORGANIZATION AND REFUSAL OF MANAGEMENT BY PUTTING ARBITRARY AND UNSUITABLE CONDITIONS ARE EXHIBITED AS EXHIBIT WW1/12 (COLLY).

THAT EVEN FOR PF, PENSION AND GRATUITY THE MANAGEMENT TRIED TO FORCE THE WORKMAN TO SIGN THE DOCUMENT SHOWING THAT SHE HAS NO CLAIMS AND DUES LEFT. THE WORKMAN REFUSED TO SIGN THE SAID DOCUMENT.

13. I say that the attitude of the Management smacks of malafides and it is clear that the Management has singled out the Workman and victimized her for no fault of hers.

14. I say that the management thereafter illegally terminated the services of the workman without following the due process of law. She was victimized and illegally retrenched without any cause. Hence the Present dispute was raised by the workman seeking reinstatement with full back wages.

**Workman tendered his affidavit on 19.3.2007. Her statement of tendering of affidavit is as follows:-**

I tender into evidence my affidavit exhibit WW1/A which bears my signature at point A to A and the contents. I also tender into evidence documents exhibit WW1/1, WW1/2, WW1/3.

At this stage the remaining statement of the workman I deferred as she has not brought the originals of some of the documents filed with the affidavit.

**She was partly cross-examined on 21.05.2007. Her partly cross-examination is as follows:-**

I have brought the originals of some more documents referred in my affidavit which have been exhibited WW1/4 to WW1/20. I further state that I am in possession of the other original documents and e-mail and needs time to produce the same on the next date. I have also tendered an unsigned documents Mark A.

At this stage the A/R of the workman opposed and submits that this documents should be exhibited. The remaining statement of the witness therefore deferred to produce the remaining original documents and the e-mails etc. and for further evidence.

**But her remaining cross-examination is deferred to fixed date as she was directed to produce the remaining original for further cross-examination.**

**On 9.04.2008 she was again cross-examined. Her cross-examination is as follows:-**

XXXXX Q. It is correct that after your appointment in Fed., 1994 till the Regional office of the management was setup in Gurgaon in March–April, 1999, you are posted in the Regional Office of the Management at DLF Center, Sansad Marg, New Delhi?

Ans. I worked at the office that was assigned by the Manager concerned including Delhi Airport or any other city.

Q. Do you have any letter in your possession directing you to work in any other city except Delhi for the period mentioned above?

Ans. All instructions by the Mgt. given verbally hence do not have any letter.

Q. Were you sent out of Delhi during the aforesaid period by way of transfer or for any particular assignment on tour?

Ans. I was sent on assignments or whenever there was staff shortage.

Q. Were you paid DA and TA while you were sent on assignment outside Delhi?

Ans. At times I was paid at times I was not depending upon the rules set by the mgt.

Q. Is it correct that the Regional Office at DLF Center at Delhi was shifted in April, 1999?

Ans. The office at DLF Center stayed there and a new office setup in Gurgaon.

Q. I putted you that the Regional Office at DLF Center Delhi was discontinued thereafter and is not functional since last 7 to 8 years.

Ans. This is incorrect. The office of the DLF Center was operational for many years after a new office was setup in Gurgaon.

Q. When the Regional office at Gurgaon was setup you alongwith other employees working at DLF Center Delhi was shifted at Gurgaon?

Ans. A new office was setup in Gurgaon around 1999 alongwith the other office at Connaught Place.

I worked mostly from Gurgaon after the office got shifted to Gurgaon.

It is correct that the Union had raised a dispute regarding setting up of a new office in Gurgaon.

I have not seen the document, the agreement dated 15.04.99 earlier.

I have received Rs. 50000/- for the inconvenience caused to travel to the new office at Gurgaon.

I was at that time residing at C/148, Ramesh Nagar, New Delhi.

I shifted my residence from Delhi to Gurgaon around 5 years back.

It is correct that Ms. Indulal was my boss. I do not know where she was posted.

I cannot say whether she was posted at Gurgaon.

I am not aware as to whether Mr. C. Danniel, Corporate Affairs and HR Manager was posted at Gurgaon. Vol. Miss. Anjumnath was the HR Manager for many years and I used to see her often in Gurgaon office.

I do not as to whether Mr. Andy stern was posted at Gurgaon but I had seen him only on few occasions.

After April, 1999, I was addressing my leave applications to Ms. Priti Sharma, Ms. Archana Sriram, Ms. Namrita Griover who ever I was reporting at that time.

I cannot say whether they were posted at Gurgaon as they were travelling a lot. Their Head Quarters was in London.

My bank account had always been in Delhi.

I used to get my salary through bank advice/salary slip.

I need to verify whether the British Airways PF, India is at Calcutta.

Same is my reply for Gratuity fund also.

I have not received a letter dated 7.2.2005 copy of which WW1/M1. There is endorsement of receipt written by me and I have put my signature and written the dated 30.3.2005 and I have received the payment of PF in terms of receipt Ex. WW1/M2.

I have received the payment of my gratuity as well as mentioned in WW1/M3 and WW1/M4.

I have put endorsement received on WW1/M1 for receiving of the cheque.

I have received pension also and the documents in this regard are WW1/M5 and WW1/M6.

At this stage cross-examination is deferred.

**His cross examination has been deferred to 23.02.2012.**

**On 23.02.2012 she was cross-examined and her cross-examination is as follows:-**

I have done short course in computer application. vol. I was first class in diploma in marketing in sales management and one year diploma public relation and administration and topped in both the course. I had applied for the post of message editing scripter in the year 1998. No, I was not selected in the year 1998. It is correct that I again applied in the year 2000 and then I was selected. It is correct MES (Message Editing Scripter) is a computer related job. There was 2 more MES in the department apart from one manager. It is wrong to suggest that during my tenure there were 7 MES working in the department. I do not know the exact number of employees working at DLF Towers Gurgaon. All the employees were working on the computer except sales and marketing employees. It is correct that chair of MES employees were same. It is correct that I was very good in software and I got several awards for excellence. The company Doctor told me not to continue working on computer. In the course of doing the work I had some problem upon which the management had referred me to the Doctor of management and he advised the management that I should be asked to discontinue working on computers for some time and in the meanwhile I should do some other work. It is correct that I was diagnosed with "Carpal tunnel syndrome" by the company doctor. It is correct that two other employees besides me were suffering from such like symptoms. I cannot say if any other employee had complained to the management regarding such like problems. I could get the benefit of sick leave till May, 2004 though I have to fight for the same. It is correct that I received the letter exhibit WW1/18. It is correct that replied the said letter vide email letter dated 23.06.2004, which is exhibited as Ex. WW1/M1. Generous VRS package referred by me in my letter Ex. WW1/M1 was relevant at that time and it could have been the subject of negotiation with the management. Right now the same is no longer relevant.

Q. Are you still willing to do the job offered to you vide letter Ex. WW1/18 ?

Ans. With medical aid I am quite better now and I can do the job which I was doing before my termination provided the work station is also suitable to my medical condition. The alternative job mentioned in the letter is not acceptable to me.

It is incorrect to suggest that the furniture and chair given to me were not ill designed. It is incorrect to suggest that I was not working on 2 computers at one time. It is incorrect to suggest that my medical condition was

unrelated to my working in the office. It is incorrect to suggest that the office furniture and other equipment of the management was of very high and of international standards. I have no idea if the management does not require my services any more Vol. In fact my job is managerial and supervisory in nature these days. It is incorrect to suggest that I am deposing falsely.

**On 23.02.2012 her cross-examination is concluded.**

**On 12.9.2012 she closed her evidence.**

**Management in support of its case filed affidavit of MW1. Ms. Ranajee Balaram on 27.04.2013. Wherein he stated as follows:-**

1. I say that the management M/s British Airways Plc is registered in England and it is an International Airlines having worldwide operations. The management has set up its business in several countries and the Controlling office of South Asia of British Airway is at DLF Plaza Tower, DLF City, Phase-I, Gurgaon in the state of Haryana. The claimant was employed with the Management at Gurgaon in the state of Haryana. I say that no part of cause of action as result within the territorial limits of this Hon'ble Court.

2. I say that the claimant was employed with the management at Gurgaoan Office and she was discharging the work as International Tele Sales Support Clerk (ITSS) from February 21, 1994.

3. I say that in 1998 a vacancy of Message Editing Scriptor (QIK Scriptor ) arose and the nature of the said job involves working on computers . The claimants applied for the post of Message Editing Scriptor and was fully aware of the duties and responsibilities of a QIK Scriptor. Vide letter dated 6.5.1998 the claimant was called for a written test and interview and was shortlisted but was not selected. A copy of the letter is exhibited as Ex MW1/1.

4. I say that again in the year 2000 there was a vacancy of a Message Edition Scriptor (QIK Scriptor) and the claimant again applied and was vide letter 27.2.2000 required to appear for the preliminary selection process comprising of the written test as well as interview. Thereafter, she was shortlisted for final round of selection process for the post of QUK Scriptor. The claimant was found suitable and appointed as QIK Scriptor-Message Editing Scriptor and was upgraded and placed in Grade D. I say that the claimant was promoted to the post of Message Editing Scriptor (QIK Scriptor) with effect from 19.6.2000. A copy of the letter dated 27.2.2000 is exhibited as Ex MW1/2 . The letter dated 5.6.2000 appointing her as Message Editing Scriptor is already exhibited as WW1/3.

5. I say that the claimant had taken a conscious decision to apply for the post of QIK Scriptor and had offered to work on a higher grade for her own better prospects. I say that the claimant was aware of the job

description and the responsibilities of a QIK Scriptor and had applied for the said post twice during her tenure with the management.

6. I say that during the entire tenure of her employment the claimant was working on the computer. I say that the benefits of working on computer are immense and well acknowledged. Obtaining , disseminating any information, data of communication through electronic media with the help of computers is quick and even immediate and saves a lot of time and energy of the employees and improves the efficiency. I say that the said job which the claimant was earlier performing falls currently in the managerial and supervisory grade.

7. I say that more than 130 employees were working in the Gurgaon office where the claimant was last employed. It is submitted that each employee has been provided with a separate computer and workstation. The Claimant like all other employees was working on a computer which was provided at her workstation. I say that the claimant has tried to make out a case that her ill-health is attributable to extensively working on computers. I say that the contention of the claimant that the furniture provided to the staff for working on computers was ill designed and did not conform to the advisable ergonomical standards is totally false. I also say that contention that the furniture and workstations were so designed that they were a health hazard for the employees is absolutely false. I say that no other employee except the claimant has ever complained about the medical problems that were being faced by her. A report on ergonomic workstation and chair pertaining to workstations used in the British Airways office issued by the Architect is annexed herewith as Exh. MW1/3.

8. I say that the working conditions of the employs in our establishment are one of the best in the country. The Management had re-located its office from DLF Centre, Sansad Marg, New Delhi to its present location at DLF Plaza Tower, DLF Qutab Enclave, Phase I, Gurgaon in April, 1999. All the employees who were residing at Delhi were paid a lump sum amount of Rs. 50,000 /- each at that time. I state that management made transport arrangements to pick up the employees and drop them at the fixed point as agreed.

9. I say that the furniture, workstations and the working conditions of the employees while they were employed at DLF Centre and thereafter at DLF Plaza Tower were/are excellent and of high standards. I say that the furniture and other equipments in the office are designed in such a manner that it not only increases the efficiency of the employees but simultaneously provides comfort to them at their workstations . I say that the management has been following international norm while designing the work stations and all the contentions that because of the work and the furniture the claimant suffered is incorrect.

10. I say that the Claimant was not the only employee working as Message Editing Scripter (QIK Scripter) . In fact there was a team of 07 staff members including the claimant which constituted the QIK Team Roster. The nature of duties being performed by the claimant and the remaining 6 staff members are not only similar but substantially the same. No other staff member employed as Message Editing Scripter (QIK Scripter) ever complained about the working conditions or any defect in the furniture or workstations as alleged by the claimant . No other aforesaid staff also ever complained about any ill-health or problem due to the furniture or workstations at the office of the management.

11. I say that the continued ill-health of the Claimant is a special problem peculiar to a particular individual and has nothing to do with working on the computer. It has nothing to do and is not at all related with office furniture or workstations as alleged by the claimant. All the staff members in the office work on computers. I say that it is unfortunate that the claimant is suffering from continued ill-health but it is totally wrong and baseless on her part to contend that the working conditions in the organization are in any manner responsible for her continued ill-health. I say that the claimant worked in accordance with the working hours of the organization and she did not spend 9 hours as alleged working on the computer.

12. I say that due to continuous ill-health of the claimant, she was not able to report for duty for which she was employed. I say that the Management had discussed about the ill-health of the claimant with her on several occasions. The claimant was not physically fit to perform the job on which she was employed and the claimant very fairly conceded this fact.

13. I say that the management had made sincere efforts to accommodate the claimant but the claimant on account of her continued ill-health was not able to perform the job on which she was employed . I say that it is not true that the claimant was victimized in any manner whatsoever rather the claimant was not physically and mentally fit to perform the job for which she was employed.

14. I say that considering the ill-health of the claimant the Management had offered that the claimant could be accommodated in the Customer Service Department where the computer related work was minimum. This communication was sent by letter dated 2nd June, 2004. A copy of the said letter is already exhibited herewith as Ex. WW1/20.

15. I say that the claimant by her email dated June 23, 2004 declined the offer of re-deployment in the Customer Service Department. The management under these circumstances was thus left with no alternative but to terminate the services of the claimant in accordance with the terms and conditions of her employment. The services

of the claimant were accordingly terminated by letter dated August 12, 2004 on account of her continued ill-health. The management had informed the claimant that her salary would be protected on her re-deployment in the Customer Service Department but despite these the claimant declined the offer of alternative employment given by the management. A copy of the email dated June 23, 2004 is exhibited herewith as Ex MW1/4 and the copy of the termination letter dated August 12, 2004 is exhibited as Ex MW1/5.

16. I say that the services of the claimant were terminated in accordance with law and there is no infirmity in the termination as alleged. I say that all dues of the claimant were cleared at the time of the termination of her employment. I say that on 30.03.2005 all the terminal benefits which included PF accumulation, pension fund and gratuity were duly paid to her. I say that the claim filed by the claimant is not maintainable and is liable to be dismissed. I say that she is not entitled to relief of reinstatement with full backwages or otherwise.

**MW1 Ms. Rajanee Balaram , tendered his affidavit on 4.10.2013. Her statement of tendering of affidavit is as follows:-**

I tender in affidavit my evidence dated 27th April, 2013. I also tender documents Ex. MW1/1 to Ex. MW1/5.

The Ld. Counsel for claimant/workman objected from tendering paper Ex . MW1/3 which is proposal by architect., he must prove it. None other is competent to prove it as per rules of evidence Act.

**She was cross-examined on same day and her cross-examination is as follows:-**

I manage the call centre and also manage the reportings, robotics scheme and the manual CBAJS. I was employed British Airways since 4th Dec, 1989. I have never worked with the workman directly. I worked in the same office in a different team. I have never supervised the workman directly or indirectly. I have not worked in the same roll as the but I worked in similar roll.

I joined British Airways as a message editing clerk. So the roll was same to what Rachna joined in. I have not seen Rachna Verma job file . Therefore I cannot say whether the roll was identical. I have worked as a message editing clerk for 2 years and after 2 years I moved to the reservation department. It could be correct to say that my roll reservation to say that my roll reservation was entirely different from my earlier duty from message editing clerk. As message editing clerk my duties were entirely computer based. We were required to do editing in computer messages. I was required to work on VIDCS come terminal which is like a computer.

We were using computers when Rachna Verma, joined her service. She was working company standard



machine but I cannot say the exact description of the machine. I have not seen Rachna Verma working on two machines (Dual Set).

I cannot say since I was not working directly with the workman. I cannot say if anybody was working on dual set in the company. I would not be able to give any detail of the workman's profile. I have a General idea of what role she was performing since I was not working in the same department. The HR department would be able to provide the information about the exact job profile. I do not know whom the workman was working under since I did not work in the same team. QIK scripter would signify same out who write a software program for the reservation system. It is a way to automate entries. It is correct that I have worked as is QIK Scripter. It is correct that information in para 3 + 4 is not based on my personal knowledge but based on information from my colleagues in the Company. It is incorrect to say the QIK was formed to handle back and reservation for the company. It is incorrect that before the QIK was formed the back and reservation worked was done by about 100 employees manually. It is incorrect to say the QIK team after it was formed has only 3 employees. It is incorrect to suggest that QIK department was under staffed. It is incorrect to suggest that workman alongwith other QIK staff was required to take compulsory overtime. I do not remember the exact date. When the job of the claimant was performing was made managerial grade position. My statement that the furniture and work station are so designed that they are not a health hazard is based on the fact that the same furniture is being used by all the employee as no one has ever had any health problems. I am not qualified to judge that if particular piece of furniture is ill designed or it a health hazard. The documents which is Ex. MW1/3 has not been prepared by me and I was not involve in the preparation. I am not aware of the international norm of designing of workstation but I am aware that there are norms I am not aware if any other member of QIK message editing team have any complaint of any health problems. It is correct that complaint if any were not supposed to be made to me. The ME Team manager was Indu Lal was the person to inform if complaint could any. It is incorrect to suggest that Rupali Kashyap Sargam Moli Sood were ever complained for similar problem as workman. It is incorrect to say that I am not aware of such complaint because I was not the supervisor of the team. The Workman was offered a position in customer service depart in which she would have been required to interact with the customer to meet customer it was minimum computer based and non-sedentary job. I am not aware if the position offered to the workman in the customer service department was two grade lower than the position the workman was at. I am not aware if the position offered to the workman in the above dept. was usually given to the temporary employees of the company. I am not aware what terms and condition

were offered to the workman in customer service department. The same would have been mentioned in the contract if she would have accepted the said position. The offer would not have been made by personnel. The same would have become handled by the HR Departments. It is incorrect to suggest the terms and conditions offered to the workman in the aforesaid department were inferior to those the workman was enjoying in earlier position. It is incorrect to suggest that in the new position the workman was required to do night shift at the airport unlike her previous position. I am not aware if the workman had applied for medical leave. Voluntarily unpaid leave due to her medical condition and the same was declined to her. I cannot say if similar leave was granted to other employees. It is incorrect to suggest that the workman was required to do overtime of about 100 hours in a month at time when she was working as QIK Scripter. It is incorrect to suggest that physical disability suffered by the workman was due to excessive use of computer in the job and ill designed office furniture. Some of my knowledge is based on the documents and some of it is based on personal knowledge since I was working in the company at the same time. I cannot say if the people worked with the workman as a supervisor are still in the company.

**Written submission on behalf of the workman on 5.11.2014. Wherein she stated as follows:-**

**Respectfully submitted**

#### **Facts in Brief**

1. The workman was appointed by the Respondent on 21.2.1994 and was confirmed on 21.5.1994 as International Tele Sales Support Clerk. (Undisputed by the Respondent)
2. Workman was promoted as Message Editing Scripter on 19.6.2000. The Workman was selected for the above position by the management after she had passed an examination for the said position. (Undisputed by the Respondent)
3. Both, as Tele Sales Support clerk and Message Editing Scripter the Workman worked extensively on computers for long hours. Workman is trained as a computer programmer. (Undisputed by the Respondent however it is disputed that the work was stressful)
4. The Workman's job profile required the workman to work for long hours on computers, which also included working on a type of computers called 'dual set'. It is a two computer system where the machine has two screens and two keyboards. Working on such machine is more stressful than a regular computer. (Disputed by the Respondent)
5. Throughout her time with the Respondent, the Workman was graded as very good worker. She received various certificates and appreciations and praises for her work from the management. The certificates of appreciation etc. are exhibited as Exhibit WW 1/4.

6. Due to extensive working on computers for long hours the Workman suffered from Repetitive Stress Injury (RSI), which affected her hands and neck resulting in loss of control over the same. Workman found it difficult to operate computers and had to take medical leave for undergoing treatments.

7. Respondent got the Workman examined by their own doctors who diagnosed that the Workman was suffering from RSI and should not work on computers or take up a job with minimal computer operations. Two Company doctors examined the Workman who reported the same diagnosis. Doctor's reports are dated 11.2.2004 and 12.2.2004. The reports are not marked as exhibits either in the Workman's evidence or Respondent's evidence but the same have been filed and relied upon by the Respondent.

8. Services of the Workman were terminated on 12.8.2004 (Ex-WW1/5) after declaring the Workman medically unfit. (Undisputed by the Respondent).

#### **Workman's Contentions**

1. The termination on medical grounds would amount to retrenchment as defined under Section 2 (00) of the Industrial Dispute Act

2. The Respondent has victimized the Workman for the following reasons:

- (a) The alternate job offered by the Respondent vide their letter dated 2.6.2004 was just an eye wash.
- (b) The alternate job offered was a shift job dealing with missing baggage handling claims at the airport. It involved night shifts and public dealing. Whereas the Workman's original job did not involve night shifts or public dealing.
- (c) The alternate job was not consistent with the Workman's qualification and skills of a computer programmer.
- (d) The Respondent did not disclose what efforts were taken by them to find a suitable alternate position for the workman. Respondent did not disclose if there were any other positions that were available and why only airport job with night shifts was offered to her. Only one option was provided by the Respondent with a condition of 'take it or leave it', that too in a very different profile than the workman's own profile and position.
- (e) It was duty of the Respondent to look for a suitable alternate position for the workman.
- (f) No terms and conditions of the new job were disclosed to the Workman. Workman could not undertake night shifts since she had a very young daughter at home and her husband had a touring job for which reason she could not leave the child at home at night.

- (g) She informed the Respondent about her problem and asked for another option. The Respondent refused to accommodate and the Workman therefore declined the airport job. (Ex-WW 1/12)
- (h) The airport position in night shift was clearly an attempt to victimize the Workman and it was not a genuine offer. Even earlier, the emails of the Workman requesting for sick leave were turned down by the Respondent. (EX-WW 1/10)
- (i) The Respondent wanted to set an example for others since the Workman had questioned the unhealthy working conditions offered by the Respondent. Threatening emails of the management have been exhibited as Ex-WW 1/11.
- (j) The furniture provided to the employees working in computers is not designed as per the standards that the Respondent's parent company follows for its employees in England.
- (k) Workman complained about the ill designed workstations but the Respondent ignored her complaints.
- (l) Other workers too have suffered similar medical problems and have complained but they have been repressed from speaking up making an example of the Workman for others by terminating her services.

#### **RESPONDENT'S DEFENCE**

1. In their reply, the Respondent had challenged the territorial jurisdiction and claimed that the Workman was employed in Gurgaon therefore Delhi will not have jurisdiction. The objections were however waived off and given up at the time of arguments.

2. That medical condition suffered by the Workman had nothing to do with the employment. There was nothing wrong with the workstations.

3. Problem was peculiar to the Workman and nobody else suffered from the said problem.

4. Working on computers was part of the job and the Workman voluntarily chose the said job. She can not later complain about the job.

5. It is not the Respondent's legal obligation to offer alternate position to a medically unfit employee. Still, the Respondent treated Workman fairly by offering her a position at the airport, which she declined.

6. Respondent has a legal right to terminate the services of a medically unfit employee. Such termination does not fall within the definition of retrenchment under Section 2 (oo) of the Industrial Dispute Act

7. Workman is not so medically unfit for her to decline the airport position offered to her.



8. Shift job is a standard operational requirement of the Respondent, being an airline. There are other women who do shift jobs without any problem in the Respondent Company and in other industries.

#### Evidence

1. Most of the facts are undisputed except the Respondent's denial that the working conditions were poor which led to the medical condition of the Workman.

2. Workman examined herself as WW 1 and testified.

3. Respondent has examined only one witness, namely Ms Rajnee Balaram (MW 1), working as MD Call BA. In her evidence MW1 has in her statement stated that she is not competent to depose and did not know what was the job profile of the Workman. She could not even depose on the nature of job Workman was doing and the problems she was facing. She candidly deposed that one Ms Indu Lal, the supervisor/boss of the Workman was dealing with the Workman. She also stated that she did not know if other employees also complained about similar medical problem as she was not the concerned person to whom such complaints would have been made. She then stated that HR department should know better. Following are the excerpts from her statement:

(a) ".....I have never worked with the Workman directly. I worked in the same department in a different team. I have never supervised the Workman. I have not worked in the same role but I worked in a similar role. I joined British Airways as a Message Editing Clerk. So the role was the same as what Rachna joined in. I have not seen Rachna Verma's file therefore I can not say whether the role was identical"

The witness clearly states above that she did not know what Rachna Verma's role was and if the same was that of hers. The witness deposed that she worked in a similar role as the Workman but then said she had not seen Workman's file and therefore cannot say if the role was identical to hers. Therefore the witness is not competent to depose about the working conditions of the Workman.

(b) ".... It would be correct to say that my role in reservation was entirely different from the earlier duty of message editing clerk"

".....she was working on company standard machine but I cannot say the exact description of the machine. I have not seen Rachna Verma working on two machines (dual sets). I cannot say since I was not working directly with the Workman. I cannot say if any body was working on dual set in the Company. I would not be able to give any details of the workman's profile. I have a general idea of what role she was performing since I was not working in

the same department. The HR department would be able to provide information of the exact profile. I do not know who she was working under since I did not work in the same team.

The Respondent's witness in examination in chief had deposed denying all the allegations made by the Workman including regarding the machines that she was using. Whereas in her cross-examination she has stated that she wasn't aware of what kind of machines Workman was using and the HR department would know of the same. Therefore, the evidentiary value of this witness is nil and the fact that Workman was made to work on extra strenuous dual set computers has not been controverted in the evidence of the Respondent.

(c) "...it is correct that I have never worked as a QIK Scriptor. It is correct that information in paragraph 3 and 4 is not based on my personal knowledge but based on information from colleagues in the Company. ...."

It is the case of the Workman that the job profile of QIK Scriptor was a very strenuous job which required working on dual set computers for long hours. Witness of the Respondent in her examination-in-chief, has denied the same. Whereas in her cross examination she has stated that she has never worked as QIK Scriptor. Therefore her evidence on the said job profile and her statement that the job was not strenuous is unreliable. The witness does not explain on what basis she has deposed about the job profile of a QIK Scriptor. Rather she has stated that her statement is based on information provided by the colleagues. The evidence of the witness is this hearsay and unreliable.

(d) ".....My statement that the furniture and workstation are so designed that they are not a health hazard is based on the fact that the same furniture is being used by all employees as no one has ever had any health problems. I am not qualified to judge that is a particular piece of furniture is ill designed or is a health hazard. The document which is Ex MW1/3 has not been prepared by me and I was not involved in the preparation. I am not aware of the international norms of designing work stations but I am aware that there are norms....."

Respondent's witness in her examination-in-chief, has deposed that there was nothing wrong with the furniture design on which the Workman was made to work for long hours. However, in her cross-examination she has stated that she is not an expert to judge and that there are international norms of workstation design but she does not know what those norms are. Also, MW 1/3 is a report of architects M/S Interior Design Consultants. This report has been filed by the Respondent to contend that the report certifies that the furniture and workstations used by the Respondent conforms to international standards. The Workman has objected to marking this document as

an exhibit since the same was a photocopy and the MW 1 did not prepare the said report nor was involved in the study. Even otherwise, said report clearly acknowledges that bad furniture and prolonged use of computers is a health hazard and causes Repetitive Stress Injury (RSI).

(e) “.....I am not aware if any other member of QIK Message Editing team have any complaints of any health problem. It is correct that complaints if any were not supposed to be made to me. The ME Team Manager was Indu Lal was the person to inform. It is incorrect to suggest that Rupali Kashyap, Sargam Moli Sood ever complained for similar problem as Workman. It is incorrect to say that I am not aware of such complaints because I am not the supervisor of the team.....”

The Respondent's sole witness has stated that the Workman was the only person who had complained in the office. She has denied that the name of the other employees from the same team who had made similar complaints. Whereas, she then states that she does not know if the complaints were made since they would have been made to Ms. Indu Lal the supervisor. She admits that she is not the concerned person to whom such complaints could be made and that she wasn't aware if such complaints were made. Therefore, her evidence that the Workman was the only employee to have complained is false.

(f) “.....the Workman was offered a position in customer service department in which she would have required to interact with the customers, to meet customers, it was minimal computer based and sedentary job. I am not aware of the position offered to the workman in the customer service department was two grades lower than the Workman was at. I am not aware if the position offered to the workman in the above department was usually given to temporary employees of the Company. I am not aware of what terms and conditions were offered to the Workman in customer service department the same would have mentioned in the contract if any she would have accepted the said position. The offer would have been made by me personally the same would have been handled by the HR department. It is incorrect to suggest that the terms and conditions offered to the workman in the aforesaid department were inferior to those of the workman.....”

The sole witness of the Respondent stated that the Workman was offered an alternate job before termination and the said job was not inferior to the Workman's earlier job. However, she also stated that she did not know what terms and conditions of the new job were and the HR department would have known that. Therefore, her entire evidence that the alternate job and the terms and conditions thereof is not reliable as she did not know

anything and was not the right person in the Company to give evidence on the same.

(g) “.....it is incorrect that in the new job the Workman was required to do night shifts at the airport unlike her previous position. I am not aware if the workman had applied for medical leave, voluntary unpaid leave due to her medical condition and the same was declined to her. I cannot say if similar leave was granted to other employees. It is incorrect to suggest that the Workman was required to do overtime of about 100 hours in a month at time when she was working as QIK Scripter.....”

The Respondent's witness was not aware of anything. She deposes contrary to the Company's stand when she says that workman was not required to work in night shifts at the airport in the alternate job, whereas the Company herself has told her that the alternate job was a night shift job and it's a normal thing in an airlines job and other women employees to do it. The witness keeps repeating that she does not know of anything but makes statements in denial of the Workman's claim. She does not know about overtime or that the Workman was denied leave etc. The entire evidence of MW 1 has no evidentiary value.

#### **Illegal Termination/Duty to provide alternate job employment**

1. The Workman has contracted an occupational disease due to prolonged, strenuous and excessive working on computers. The job profile itself required strenuous computer operations. The Company doctors have diagnosed the Workman to be suffering from RSI (Repetitive Stress Injury) and had advised her to take up jobs with mo or minimal use of computers.

#### **Distinction between occupational disease and continuous ill health**

2. If the Workman suffered from an occupational disease, it is duty of the Respondent to provide them an alternate employment rather than terminate her services. This principle was laid down by the Hon'ble Supreme Court in Anand Bihari & Othrs Vs. Rajasthan State Transport Corporation Jaipur and Another AIR 1991 SC 1003. (Annexure-A hereto)

In the aforesaid judgment the Hon'ble Supreme Court criticised the employer for treating the bus drivers employed by them on the same footing as employees who suffer from ill health. The Hon'ble Supreme Court attributed weakening of eye sight of drivers, who drive transport busses for long hours and long distance and at night, to their employment and there categorised it as an occupational disease. The Hon'ble Court directed that such drivers whose eye sight is weakened with time should be provided alternate jobs and should not be terminated.

Even though the said judgment was passed in relation to a State Transport Corporation, however the principle was upheld and applied in the case of a private employer, by the Hon'ble Punjab & Haryana High Court in Balarpur Industries Ltd. Vs. Karan Singh MANU/PH/1043/2001 (Annexure-B hereto)

In the aforesaid matter, the Hon'ble High Court upheld the order passed by the Labour Court, directing the employer to provide alternate employment to the workman suffering from occupation disease, was upheld, rejecting the contention of the employer, that principle laid down in Anand Bihari (supra) was only, applicable to government employment. (para 7).

**Management filed written submission in which it stated as follows:-**

Most Respectfully Showeth:

1. The present case arises out of an order of reference issued by the Central Government on the basis of Conciliation proceedings between the Management of M/s. British Airways and the claimant Ms. Rachna Verma. The terms of the reference are as under:-

“Whether the action of the Management of British Airways, 11th floor, Gopaldass Bhawan, Barakhamba Road, New Delhi in terminating the services of Ms. Rachna Verma Message Editing Scriptor w.e.f. 12.08.2004 is just fair and legal? If not to what relief is the workman entitled?”

**CASE OF THE CLAIMANT**

2. The claimant filed her statement of claim wherein the case of the claimant, in nutshell, is that the claimant joined the services of the Management on 21.02.1994 as tele-sales support clerk and that she was promoted to the position of Message Editing Scriptor w.e.f. 19.06.2000. It is the case of the claimant that throughout her period of employment the claimant worked on the computers. The furniture provided to the claimant did not conform to advisable ergonomic standards. She has averred that the furniture and work station so provided were a health hazard for the employees. It is further the case of the claimant that she suffered bad health and injuries as a direct result and consequence of the bad working conditions provided by the management. It is further asserted by the claimant that prior to her termination in view of her illness the Management offered her an alternate work which she refused as according to her she was required to work during odd hours and night shifts which was not acceptable to her. It is further claimed by the claimant that the Management illegally terminated her services.

**CASE OF THE MANAGEMENT**

3. In rebuttal to the claim of the claimant, the Management stated that the termination of the services of the Claimant was on account of continued ill health and is covered by Section 2 (oo) (c) of the Industrial Disputes Act, 1947.

4. In order to prove its defence under Section 2 (oo) (c) of the Industrial Disputes Act 1947, the Management filed its written statement wherein the Management denied the case of the Claimant. It was, inter-alia, stated that the claimant while working as tele-sales support clerk with the Management twice applied for the job of Message Editing Scriptor, first in 1998 and then in 2000, when finally she was selected for the said post. The Claimant while applying for the post of Message Editing Scriptor, very well knew that the job involved extensive working on computers. It is also the case of the Management that working on a computer is a necessary concomitant and its benefits are immense, well known and acknowledged, as it saves a lot of time and energy of the employees and improves the efficiency. During the tenure of the Claimant, more than 130 employees employed with the Management, have had independent and separate work stations and a computer and worked extensively on computers. There is a team of 07 employees on the Message Editing Scriptor Roaster of the Management including the Claimant. The nature of duties being performed by all these 07 employees is almost similar and identical. None of the 130 employees or 06 employees on the roaster of MES ever complained to the Management about any ill health on account of working on computers, or about any ill-designed work stations. It is asserted that the working conditions of the employees in the establishment of the Management are excellent and one of the best in the country. The work station, table, chairs etc. conform to the ergonomic standards approved and used world-wide. It is also asserted that the Claimant on account of her continued ill health was not able to report for duties and to perform the work for which she was employed for a long time. The Management discussed the ill-health of the Claimant on several occasions and it became evident that the workman was not physically fit to perform the job on which she was employed. Though the Management was not obliged in any manner whatsoever, yet, as a special case and on humanitarian grounds, the Claimant in view of her continued ill health, was offered alternative employment in Customer Service Department where the computer-related work was nil or minimal. However, the Claimant declined the offer of re-deployment on flimsy grounds. As such the Management had no option but to terminate the services of the Claimant on the ground of continued ill-health.

5. In her rejoinder the Claimant reiterated her case as made out in the statement of claim.

6. On the basis of the pleadings the Hon'ble Tribunal framed the following issues:

6.1 Whether the Hon'ble CGIT as the territorial jurisdiction to adjudicate upon the present case?

6.2 In terms of reference.

7. The claimant filed her evidence by way of affidavit and was cross-examined, similarly the Management witness Ms. Rajanee Balaram deposed as the Management witness and was cross-examined.

#### **APPRECIATION AND EVALUATION ON THE ISSUE OF TERMS OF REFERENCE.**

8. The defence raised by the Management in rebuttal to the case of the Claimant is that the services of the claimant were terminated on account of continued ill-health in terms of section 2(oo) (c) of the Industrial Disputes Act, 1947 (hereinafter referred to as ID Act) which reads as under:

"2(oo) 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include-

.....

.....

(bb).....

(c) Termination of the service of a workman on the ground of continued ill-health.

9. A perusal of the definition given under 2 (oo) (c) of the ID Act shows that a case where termination of the services of a workman takes place on the ground of continued ill-health is legally permissible and is not retrenchment. Hence, there is no need for the Management to comply with the requirements of Section 25-F of the ID Act or pay any retrenchment compensation.

10. On the other hand the case of the claimant is that the ill-health suffered by the claimant was a direct result of, and attributable to, the various acts of omission and commission on the part of the management in not providing proper working conditions and making the claimant to work extensively on computers and ill-designed work station.

#### **PRESENT PROCEEDINGS UNDER I.D. ACT AND IS NOT A CLAIM FOR EMPLOYMENT INJURY-CLAIMANT FAILED TO PROVE HER CASE**

11. It is respectfully submitted that the present case is an industrial dispute where the action of the Management in terminating the services of the claimant w.e.f 12.08.2004 has to be adjudicated. It is not a case under the Employees Compensation Act where compensation for any alleged employment injury has to be decided. Without prejudice to the same the claimant has totally failed to prove any of her averments that the furniture, chair, work station etc.

provided to her during the course of her employment was ill-designed or did not conform to advisable ergonomic standards or that it led to the ill-health of the claimant;.

12. The claimant has not placed on record even a single documentary evidence to show that the claimant at any point in time during her course of her employment informed the Management about the alleged improper/inadequate/ ill-designed working conditions or furnitures prior to filing the statement of claim. .

13. The only documents which have been referred to in this behalf by the Claimants are emails dated 12.06.2003 and 16.06.2003 (Exhibits WW1/8 colly.). However, a perusal thereof shows that by these documents the claimant is merely asking one of her colleagues for some wrist cushions that are being used by staff placed in the head office. These documents do not in any manner show that the work station used by the claimant was ill designed or that owing to the same the claimant suffered any ill-health.

14. In fact, what comes out from the assertions of the Claimant is that the Claimant suffered ill-health on account of 'working on computers.' It is submitted that any adversity on one's health on account of performing on computers, is a personal health hazard and cannot be attributed to any other reason as is being sought to be done by the Claimant.

15. Here it would be pertinent to mention that the Claimant knew very well that the job of Message Editing Scriptor was a wholly computer oriented job; yet, she twice applied for the same; firstly in 1998, when she could not be selected; and then in 2000 when she was finally selected. This fact only shows that the Claimant was very inclined and interested in doing computer-extensive job.

16. The same has also been admitted by the Claimant in her cross examination, when she makes the following averments/admissions/statements:-

16.1 I have done short course in computer application;

16.2 I had applied for the post of message editing scripiter in the year 1998. No I was not selected in the year 1998;

16.3 It is correct that I again applied in the year 2000 and then I was selected;

16.4 It is correct that MES (Message Editing Scriptor) is a computer related job.

17. In addition to the above, the Claimant has not been able to show that the illness that she was suffering from, was on account of working on ill-designed work station or working in the office. Rather, from the cross examination of the Claimant, it comes out that there were other employees of the Management and none faced health problems like the Claimant. In this behalf, the Claimant has admitted that "all the employees were working on the



computer except sales and marketing employees.” The Claimant has also admitted, “the chairs of MES employees were same.” The Claimant admitted, “it is correct that I was diagnosed with ‘carpal tunnel syndrome’ by the company doctor”. She also admitted, “I cannot say if any other employee had complained to the management regarding such problem.” All the statements/admissions mentioned above go on to show that the ailment of the Claimant was absolutely unrelated to her work.

18. Though several employees have been working extensively on computers in the employment of the Management; yet, the Claimant failed to prove that any other employee(s) suffered similar illness as the one she suffered, or produce any witness in this behalf. In the absence of the same, a clear inference can be drawn that the ailment in question was individually related to the Claimant and has had nothing to do with her working on computers in the employment of the Management.

19. On the other hand, the Management in its evidence, duly rebutted the case of the Claimant. In this behalf, the MW-1 appearing on behalf of the Management denied that she has ever seen the Claimant working on two computers at the same time. The MW-1 has also denied that before the QIK was formed, the backend reservation work was done by about 100 employees manually. The witness also denied the suggestion that QIK department was under staffed.

20. The MW1 also denied the suggestion that the Claimant along with other QIK staff was required to take compulsory over time. The MW-1 also stated that the same furniture/work station as the Claimant used, is being used by all the employees of the Management and no one has ever had any health problem and as such the same are not ill designed. The MW-1 denied having any awareness about any other member of QIK team having any complaint of any health problems. The MW-1 also denied the suggestion that Rupali Kashyap or Sorgam Moli Sood ever complained for similar problem as the Claimant. The MW-1 also denied the suggestion that the Claimant applied for medical un-paid leave due to her condition which was denied; while the same was allowed to other employees. The witness denied the suggestion that the Claimant was required to do over time of about 100 hours in a month when she was working as QIK Scriptor. The witness also denied the suggestion that the physical disability suffered by the Claimant was due to excessive use of computers in the job and ill designed office furniture.

21. It is pertinent to mention that the Claimant has tried to introduce new averments for the first time in her evidence which had not been pleaded in her statement of claim. Certain averments which were not part of her statement of

claim, but have been taken for the first time in the evidence affidavit (Ex. WW-1/A) are as follows:-

21.1 The workman was asked to operate two computers at one time (paragraph 5 of evidence affidavit WW-1/A)

21.2 The workman tried her best to point out the bad working conditions including bad work stations but management did not pay any heed to same (paragraph 9 of evidence affidavit WW-1/A)

21.3 The management inspite of the ill health of workman did not allow the workman to user her sick leaves and forced her to attend office when she was unwell and was not in a position to attend office. (paragraph 10 of evidence affidavit WW-1/A)

22. The Management respectfully submits that primarily these averments/assertions/allegations/accusations by the Claimant being not a part of the statement of claim, and being mentioned for the first time in the evidence affidavit, cannot be considered at all in accordance with well settled position of law. Secondly, the same are patently false and have not been proved by the Claimant during the course of her evidence or otherwise.

23. The next contention of the Claimant is that she was not allowed to use her leaves of all kinds (i.e. earned leaves, casual leaves, sick leaves etc.). The said allegation is also false even to her knowledge. In this behalf, the Management relies upon the documents i.e. email dated 31.03.2004 and letter dated 12.08.2004 proved as Ex. WW-1/10 and Ex. WW-1/18 respectively in evidence of the Claimant to show that the Claimant over-availed her leave than what was legally due and permissible.

24. A perusal of document Ex. WW-1/10 (email dated 31.03.2004 by the Claimant) shows that the leave entitlement claimed by the Claimant was 24 days annual leave, 15 days sick leave with medical certificate and 05 days of sick leave without medical certificate; thereby totaling to 44 days in an year. Further, Ex. WW-1/18 shows that the Claimant had been staying away from work since January 2004; that the Claimant exhausted all her leaves on 17.05.2004; that since 17.05.2004 the Claimant has been on leave without pay, till 12.08.2004 when the Management was constrained to terminate the services of the Claimant on account of continued ill-health. Against the entitlement of 44 days total leave in an year, the Claimant (from January 2004 to 17.05.2004) availed leave for around 04 months i.e. 120 days). Even thereafter, she was on leave without pay for another 03 months i.e. 90 days (w.e.f. 17.05.2004 till 12.08.2004).

25. The Claimant has not controverted these documents, which, in fact, have been relied upon by the Claimant herself in her evidence. This clearly shows that the allegations of the Claimant that she was not allowed to avail her leaves as aforesaid, is patently false and unproved.

26. From the above, it is evident that the Claimant has failed to prove her case that the ill health she suffered from, was owing to the acts of omission and commission on the part of the Management in not providing healthy working conditions. It is clear that the ailment of the Claimant was absolutely unrelated to her work and that the same was specific to the Claimant individually. Without prejudice to the above it is submitted that section 2(oo)(c) of the Industrial Disputes Act, 1947 was clearly attracted in view of the undisputed continued illness of the claimant but the Management was sympathetic and gave her an opportunity to take alternative work where there was virtually no computer work which was refused by her.

#### **MANAGEMENT DULY PROVED ITS DEFENCE**

27. The Management in order to prove its case under Section 2 (oo) (c) of the ID Act, has to establish:-

27.1 that the Claimant was suffering from continued ill-health;

27.2 and that the termination was on account of continued ill-health;

#### **CLAIMANT SUFFERING FROM CONTINUED ILL-HEALTH**

28. That the Claimant was suffering from continued ill-health, rendering her unable to perform her duties arising out of her employment with the Management, is clearly evident from the following documents:-

28.1 Ex. WW-1/10 (email dated 31.03.2004)

In this document, the Claimant has stated that 'the Management is well aware of her medical disabilities and severe damage to her hand, arm, neck and spine' and that 'the doctors have advised her against working on computers and look for an alternate non computer related profession.' In fact, the Claimant has admitted that 'she is currently physically disabled' and requested for 'special sick leave for couple of months.'

28.2 Ex. WW-1/M-1 (email dated 23.06.2004)

In this document, the Claimant has stated about her fragile health and medical condition rendering her unable to continue working on computers. The Claimant has referred herself as a disabled employee and has reiterated that she has to retire due to disablement.

28.3 Ex. WW-1/19 (medical certificate of the Claimant)

This document is a medical statement of the Claimant, issued by Physical Therapy Clinic and the same is suggestive of the fact that the Claimant is critically ill and is rendered unable to work on computers.

28.4 Ex. WW-1/20 (letter dated 02.06.2004)

This is a letter by the Management written to the Claimant wherein the Claimant was offered alternative employment in customer service department on account of her medical conditions and her absence from work due to health grounds.

28.5 Ex. WW-1/18 (letter dated 12.08.2004)

This is the termination letter issued to the Claimant. The grounds for terminating her services were her absence on account of continued ill health.

29. Besides the above, the claimant has also admitted in her cross examination that she was suffering from carpal tunnel syndrome due to which she was unable to perform her duties arising out of employment with the Management.

30. The Management Witness has also proved through her evidence affidavit (Ex. MW-1/A) that the Claimant was suffering continuously on account of ill health. This ill-health was due to peculiar personal medical problem called the carpal tunnel syndrome and is caused apparently due to certain neurological disorders.

31. From the above said documents, it is amply clear that the Claimant was continuously suffering from ill health on account of which she was unable to perform her obligations arising out of her employment with the Management.

32. The submissions made in foregoing paragraphs No.10 to 22 make it evident that the ill health suffered by the Claimant was not related to the work performed by the Claimant. It was specific to the Claimant individually.

#### **THE TERMINATION ON ACCOUNT OF CONTINUED ILL-HEALTH OF CLAIMANT;**

33. The Claimant was absent on account of ill-health w.e.f. January 2004 till 12.08.2004 when her services were terminated. The company doctor to which the Claimant was referred diagnosed her to be suffering from carpal tunnel syndrome. The same has been admitted by the Claimant in her cross examination. Besides this, various documents as stated above, show that the Claimant was suffering from ill health and that she had become incapacitated to render her professional duties towards the Management. In view of the same, the services of the Claimant were terminated in terms of letter dated 12.08.2004, which has been proved as Ex. WW-1/8. From the above, it is amply clear that the termination was on account of continued ill health of the Claimant as envisaged under section 2(oo)(c) of the Industrial Disputes Act, 1947.

#### **BONAFIDE OF MANAGEMENT: ALTERNATIVE EMPLOYMENT OFFERED: REFUSED BY CLAIMANT**

34. Though it was not obligatory on the part of the Management to offer any kind of alternative employment to the Claimant before invoking Section 2 (oo) (c) of the



ID Act and terminating her services on account of continued ill health; yet on humanitarian grounds and as a special case, the Claimant was offered alternative employment in the customer service department, where the computer based work was nil or minimal. The document in this behalf is the letter dated 02.06.2004. The same has been proved in evidence of the Claimant as Ex. WW-1/20. However, in terms of her email dated 23.06.2004 (proved as Ex. WW-1/M-1), the Claimant citing extraneous reasons, did not accept the offer of alternative employment given by the Management. In such circumstances, the Management was left with no option but to terminate the services of the Claimant on grounds of continuous ill-health in terms of letter dated 12.08.2004.

### **IN CASE OF SECTION 2 (OO) (C); NO RETRENCHMENT COMPENSATION PAYABLE**

35. The Management respectfully submits that the services of the Claimant were terminated on account of continued ill-health in terms of section 2(oo) (c) of the Industrial Disputes Act, 1947 (hereinafter referred to as ID Act) which reads as under:

“2(oo) ‘retrenchment’ means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include-

.....

.....

(bb).....

(c) Termination of the service of a workman on the ground of continued ill-health.

36. A perusal of the definition given under 2 (oo) (c) of the ID Act shows that a case where termination of the services of a workman takes place on the ground of continued ill-health is legally permissible and is not ‘retrenchment’. Hence, there is no need for the Management to comply with the requirements of Section 25-F of the ID Act or pay any retrenchment compensation. Section 25-F of the ID Act is re-produced as under:-

“25F. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

(a) the workman has been given one month’s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days’ average pay for every

completed year of continuous service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.”

37. Further, it is well settled by various judicial pronouncements cited in the later part of the written arguments that no retrenchment compensation as envisaged under Section 25-F of the ID Act is payable in a case where termination is on account of continued ill health as provided under Section 2 (oo) (c) of the ID Act.

### **TERMINAL BENEFITS WORTH LACS OF RUPEES PAID TO THE CLAIMANT**

38. It has been stated by the Management that the Claimant was paid all her terminal benefits at the time of termination of her services and the same have been duly received and appropriated by the Claimant.

39. The details of the various terminal benefits paid to the Claimant are given as under:-

PF Accumulations	: Rs. 6,93,465.37p
Pension Fund	: Rs. 1,08,097.00p
Gratuity	: Rs. 1,38,346.00p
<b>Total</b>	<b>: Rs. 939908.37p</b>

### **PERSONS WITH DISABILITIES ACT: NOT APPLICABLE**

40. It has been argued on behalf of the Claimant that since the Claimant suffered from the disability on account of her continued ill health, during the course of employment with the Management, Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 (hereinafter referred to as the Disabilities Act) is applicable and in terms of Section 47 of the Act, her services are not liable to be dispensed with and she is entitled to some suitable alternative employment.

41. The Management respectfully submits that Section 47 of the Disabilities Act is not at all applicable to a private establishment/company but only to government employments, which is very clear from a bare perusal of the Section 47, which reads as under:-

47. Non-discrimination in Government employments.—(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a

supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

42. In fact, the Management is outside the purview of term 'employer' as defined in Section 2 (j) of the Disabilities Act, meaning thereby that the very Act is not applicable to the establishment of the Management. In this behalf, relevant definitions i.e. 'employer' and 'establishment' as provided in Section 2 (j) and 2 (k) of the Disabilities Act are re-produced as under:-

(j) "employer" means,—

(i) in relation to a Government, the authority notified by the Head of the Department in this behalf or where no such authority is notified, the Head of the Department; and

(ii) in relation to an establishment, the Chief Executive Officer of that establishment;

(k) "establishment" means a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 617 of the Companies Act 1956 (1 of 1956) and includes Departments of a Government;

43. From the above, it is evident that the management is neither an employer nor an establishment within the Act and hence the Act itself is not applicable to the Management.

44. Moreover, the Hon'ble Supreme Court and other High Courts in various judicial pronouncements, after discussing the aims, objects and scope of the Disabilities Act, have categorically held that the same is not applicable to a private establishment/company like the Management. Some of the relevant case law has been cited in the later part of the written arguments.

#### **REBUTTAL TO THE CONTENTIONS RAISED BY THE CLAIMANT IN HER WRITTEN ARGUMENTS**

45. In paragraph 3, on page 5 of her written arguments, it has been claimed that the MW-1 in her evidence has stated that she is not competent to depose; that MW-1 did not know what the job profile of the Claimant was and that MW-1 could not even depose on the nature of job the

Claimant was doing and the problems the Claimant was facing. In this behalf, it is submitted that nowhere in her entire evidence, has the MW-1 anywhere stated that she is not competent to depose on behalf of the Management; hence the allegations of the Claimant are absolutely false. With respect to the job profile of the Claimant, MW-1 has stated that though she has not worked in the same roll as the Claimant's but she worked in similar roll of Message Editing Clerk and that as Message Editing Clerk, her duties were entirely computer based and she was required to do editing in computer messages. MW-1 also stated that she joined British Airways as Message Editing Cleri and so was the roll in which the Claimant joined in. Merely because the MW-1 has not seen the job profile of the Claimant, it does not mean that the MW-1 is incompetent to depose about the working conditions of the Claimant because MW-1 has clarified that MW-1 has a general idea of the roll the Claimant was performing. Moreover, owing to the fact that the MW-1 herself worked as Message Editing Clerk and extensively worked on computers, it is amply clear that MW-1 is a competent witness, who can also testify about the computer-oriented job profile being not a health hazard at all, as has been falsely claimed by the Claimant.

46. The allegation contained in last paragraph, on page 6/7 of her written arguments to the effect that MW-1 has feigned ignorance about the kind of machine the Claimant was using, is false. In fact, the MW-1 has categorically stated that the Claimant was working on company's standard machine, though she cannot say about the exact description of the machine. MW-1 is clearly aware about the type of the machine the Claimant was working on. It is also incorrect that the allegation that the Claimant was made to work on dual set of computers, remains uncontroverted. In this behalf, it is submitted that the MW-1 has categorically denied having seen Rachna Verma working on two computers (dual).

47. The allegations made in sub-paragraph 2, on page 7 that merely because the MW-1 never worked as QIK Scriptor, she was not competent to depose about the job profile of the Claimant. As afore-said, the MW-1 has clearly stated that she has a general idea about the role the Claimant was performing. This makes the MW-1 a competent witness to depose about her profile. Moreover, it has amply been proved by way of evidence of the Claimant that she opted for computer-extensive job of her own choice and will and despite fully knowing that it was a computer extensive job.

48. On page 8, first paragraph, it has been alleged that since the MW-1 was not the author of the Ergonomics Report Ex. MW-1/3, she was incompetent to depose about the same. It is respectfully submitted that it is a well settled proposition of law that in the cases of industrial

adjudication, strict rules of evidence do not apply. Once MW-1 has stated that the furniture, workstation etc. conform to the Ergonomics standards as per the Report Ex. MW-1/3 and there is other corroborative evidence in support of the Report, it cannot be said that MW-1 cannot prove the same in her evidence.

49. The allegations contained in second paragraph on page 8 are absolutely irrelevant, inasmuch as the onus to prove that the continued ill health suffered by the Claimant was on account of working extensively on computers, which onus the Claimant has clearly failed to discharge. The Claimant has also failed to prove, either by documentary evidence or otherwise, if any complaint in this behalf was ever made by the Claimant. In this eventuality, the contention that the MW-1 was not the supervising authority of the Claimant, or that the MW-1 was not aware if any complaint was made by the Claimant regarding ill-designed work station, is immaterial and has no bearing on the case.

50. The allegations contained in first paragraph on page 9 of the written arguments are, again, flimsy and baseless. It is submitted that the Claimant has nowhere denied the job profile of the alternative employment offered to her; nor does the Management do. It is, in fact, an admitted case that the Management out of humanitarian concern for its employee, the Claimant was offered alternative job as per her suitability, which was that the job involved minimal or no-computer related duties. This was despite the fact that the Management was in no way duty bound or under legal obligation to offer any alternative employment.

51. The allegations contained in first paragraph on page 10 of the written arguments, are repetition of her allegations in foregoing paragraph.

52. Lastly, the case-law cited by the Claimant on page 10 onwards has no bearing on the case. In the said two case laws what was in issue was government employment and the applicability of the Disabilities Act vis-à-vis government employment. Whereas the present is a private employment in which the Disabilities Act does not apply. In this behalf, the Management refers to the following case-law, which amply shows that the Disabilities Act does not apply in private employments.

#### CASE LAWS

#### **TERMINATION FOR CONTINUED ILL HEALTH: LEGALLY PERMISSIBLE UNDER SECTION 2(OO)(C) OF THE ID ACT: NO NEED TO COMPLY WITH SECTION 25 (F) OF THE ID ACT**

53. In the case of 'Hindalco Industries Ltd. V. Labour Court, Varanasi & Anr.' (2001) 9 SCC 178, the Hon'ble Supreme Court held as under:-

2. "..... The definition of 'retrenchment' contained in Section 2 (oo) clearly says that retrenchment does not include 'termination of the service of a workman on the ground of continued ill health'. It cannot be disputed that the unfitness of the respondent on medical ground to function as a driver of a motor vehicle on account of failing eyesight could not, therefore, be treated as retrenchment to permit grant of the relief which the High Court has given to him. It is necessary to say so for the purpose of correcting the conclusion reached by the High Court on this question of law."

54. In the case of 'Ramaswamy Muruges V. S.G.Bhonsale,' 2005 (4) Mh.L.J. 127, the Division Bench of Hon'ble Bombay High Court held as under:-

"12.....The workman is a fitter. Dr. Dinsukhlal Sadavarti deposed that the work of a fitter is in standing position and that fitter's job cannot be done in sitting position. Surely the workman would not take medical leave if he was in a position to work. If in last five years preceding the order of termination, the workman remained absent for large number of days on the ground of medical leave, logically it follows that he remained absent because of continued ill-health and his inability to discharge his duties. The expression 'continued ill-health' in sub clause (c) of Section 2 (oo) does not mean uninterrupted continued ill-health but what it means is ill-health for considerable long period and long duration affecting normal duties. In the facts and circumstances of the case, the findings recorded by the Labour Court that the workman was suffering from continued ill-health and that ill health prolonged for consideration period cannot be said to suffer from any illegality or perversity and the learned single judge cannot be said to have erred in concurring with the said view in its brief order dismissing the writ petition at motion hearing stage."

55. In the case of 'Subhash Ramchandra Dumbre V. Maharashtra State Cooperative Agricultural and Rural Development Bank Ltd.', 2010 (2) LLJ 632, the Hon'ble Bombay High Court held as under:-

5.....The Labour Court had proceeded on the footing that no inquiry had been held and therefore the order of termination was illegal since it amounted to stigma. The Industrial Court rightly, in my view, noticed that the question of holding inquiry in the present case did not arise. In the present case, the complainant admittedly was on leave for long period on the ground of illness and as such, the Industrial Court correctly held that the bank was justified in issuing notice of termination by paying compensation of discharge simplicitor and for such a discharge, no inquiry was necessary....."

## DISABILITIES ACT: NOT APPLICABLE TO PRESENT CASE

56. In the case of 'Dalco Engineering Pvt. Ltd. vs. Satish Prabhakar Padhye & Ors', AIR 2010 SC 1576, the Full Bench of the Hon'ble Supreme Court, while considering the scope and applicability of the Disabilities Act vis-à-vis private companies/establishments, held as under:-

"12. There is indication in the definition of 'establishment' itself, which clearly establishes that all companies incorporated under the Companies Act are not establishments. The enumeration of establishments in the definition of 'establishment' specifically includes "a Government Company as defined in Section 617 of the Companies Act, 1956". This shows that the legislature, took pains to include in the definition of 'establishment' only one category of companies incorporated under the Companies Act, that is the 'Government Companies' as defined in Section 617 of the Companies Act. If, as contended by the employee, all Companies incorporated under the Companies Act are to be considered as 'establishments' for the purposes of Section 2(k), the definition would have simply and clearly stated that 'a company incorporated or registered under the Companies Act, 1956' which would have included a Government company defined under Section 617 of the Companies Act, 1956. The inclusion of only a specific category of companies incorporated under the Companies Act, 1956 within the definition of 'establishment' necessarily and impliedly excludes all other types of companies registered under the Companies Act, 1956, from the definition of 'establishment'. It is clear that the legislative intent was to apply section 47 of the Act only to such establishments as were specifically defined as 'establishment' under section 2(k) of the Act and not to other establishments. The legislative intent was to define 'establishment' so as to be synonymous with the definition of 'State' under Article 12 of the Constitution of India. Private employers, whether individuals, partnerships, proprietary concerns or companies (other than Government companies) are clearly excluded from the 'establishments' to which section 47 of the Act will apply.

13. There is yet another indication in section 47, that private employers are excluded. The caption/marginal note of section 47 describes the purport of the section as non-discrimination in Government employment. The word 'government' is used in the caption, broadly to refer to 'State' as defined in Article 12 of the Constitution. If the intention of the legislature was to prevent discrimination of persons with disabilities in any kind of employment, the

marginal note would have simply described the provision as 'non-discrimination in employment' and sub-section (1) of section 47 would have simply used the word 'any employer' instead of using the word 'establishment' and then taking care to define the word 'establishment'. The non-use of the words 'any employer', and 'any employment' and specific use of the words 'Government employment' and 'establishment' (as defined), demonstrates the clear legislative intent to apply the provisions of Section 47 only to employment under the State and not to employment under others. While the marginal note may not control the meaning of the body of the section, it usually gives a safe indication of the purport of the section to the extent possible. Be that as it may."

57. In the case of 'J.B. Kumar V. Brijesh Sethi' WP (C) 3642/2002, decided on 19.01.2007, the Hon'ble Delhi High Court held as under:-

"5. It is submitted by the petitioner that his physical disability could not be a reason for his termination in view of Section 47 of the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (in short the Act). Section 47 of the said Act reads as under:

"Non-discrimination in Government employments.  
(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier."

6. A bare perusal of the above provision would show that this provision is applicable only in case of Government employment and it is not applicable in case of private establishments. It is not the case of the petitioner that the respondent is a Government establishment or government aided establishment. Respondent is a private establishment. The provisions of Section 47 of the Act would, therefore, not be applicable in case of the respondent. I am fortified in my view by judgment of Punjab and Haryana High Court in Hem Chand v. Union of India Punjab Law Reporter Vol. Cxxxv-(2003-3) wherein a Division Bench of Punjab and Haryana High Court had held that Section 47 is not applicable in case of non-government establishments."



**PRAYER OF THE MANAGEMENT**

It is prayed by the Management that the reference be decided in favour of the Management and the claim of the Claimant be rejected.

I have heard the arguments of Ld. A/R's for the parties at length and perused the pleadings of claim statement, written statement and rejoinder as well as contentions and counter contentions mentioned in the written arguments of the parties and principle laid down in the cited rulings.

I also perused the provisions of section 2(00)(c) of I.D. Act, 1947 to evaluate the justifiability and legality of retrenchment of workman without retrenchment compensation provided in section 25J of I.D. Act, 1947.

I also perused the provisions of Indian Evidence Act to determine the burden of proof to prove question of determination No.1 lies on which of the parties.

Perusal of contents of question of determination No.1 mentioned in schedule of reference makes it crystal clear that burden to prove it lies on management.

In this background evaluation of evidence adduced by management and rebutted by workman is needed for proper appreciation of evidence.

**Evidence of parties reveals as follows:-**

1. Most of the facts are undisputed except the Respondent's denial that the working conditions were poor which led to the medical condition of the Workman.

2. Workman examined herself as WW 1 and testified.

3. Respondent has examined only one witness, namely Ms Rajnee Balaram (MW 1), working as MD Call BA. In her evidence MW1 has inter-alia stated that she is not competent to depose and did not know what was the job profile of the Workman. She could not even depose on the nature of job Workman was doing and the problems she was facing. She candidly deposed that one Ms Indu Lal, the supervisor/boss of the Workman was dealing with the Workman. She also stated that she did not know if other employees also complained about similar medical problem as she was not the concerned person to whom such complaints would have been made. She then stated that HR department should know better. Following are the excerpts from her statement:

(h) ".....I have never worked with the Workman directly. I worked in the same department in a different team. I have never supervised the Workman. I have not worked in the same role but I worked in a similar role. I joined British Airways as a Message Editing Clerk. So the role was the same as what Rachna joined in. I have not seen Rachna Verma's file therefore I can not say whether the role was identical"

The witness clearly states above that she did not know what Rachna Verma's role was and if the same was that of hers. The witness deposed that she worked in a similar role as the Workman but then said she had not seen Workman's file and therefore cannot say if the role was identical to hers. Therefore the witness is not competent to depose about the working conditions of the Workman.

(i) "... It would be correct to say that my role in reservation was entirely different from the earlier duty of message editing clerk"

".....she was working on company standard machine but I cannot say the exact description of the machine. I have not seen Rachna Verma working on two machines (dual sets). I cannot say since I was not working directly with the Workman. I cannot say if any body was working on dual set in the Company. I would not be able to give any details of the workman's profile. I have a general idea of what role she was performing since I was not working in the same department. The HR department would be able to provide information of the exact profile. I do not know who she was working under since I did not work in the same team.

The Respondent's witness in examination in chief had deposed denying all the allegations made by the Workman including regarding the machines that she was using. Whereas in her cross-examination she has stated that she wasn't aware of what kind of machines Workman was using and the HR department would know of the same. Therefore, the evidentiary value of this witness is nil and the fact that Workman was made to work on extra strenuous dual set computers has not been controverted in the evidence of the Respondent.

(j) "...it is correct that I have never worked as a QIK Scripter. It is correct that information in paragraph 3 and 4 is not based on my personal knowledge but based on information from colleagues in the Company. ...."

It is the case of the Workman that the job profile of QIK Scripter was a very strenuous job which required working on dual set computers for long hours. Witness of the Respondent in her examination-in-chief, has denied the same. Whereas in her cross examination she has stated that she has never worked as QIK Scripter. Therefore her evidence on the said job profile and her statement that the job was not strenuous is unreliable. The witness does not explain on what basis she has deposed about the job profile of a QIK Scripter. Rather she has stated that her statement is based on information provided by the colleagues. The evidence of the witness is this hearsay and unreliable.

(k) ".....My statement that the furniture and workstation are so designed that they are not a health

hazard is based on the fact that the same furniture is being used by all employees as no one has ever had any health problems. I am not qualified to judge that is a particular piece of furniture is ill designed or is a health hazard. The document which is Ex MW1/3 has not been prepared by me and I was not involved in the preparation. I am not aware of the international norms of designing work stations but I am aware that there are norms.....”

Respondent’s witness in her examination-in-chief, has deposed that there was nothing wrong with the furniture design on which the Workman was made to work for long hours. However, in her cross-examination she has stated that she is not a expert to judge and that there are international norms of workstation design but she does not know what those norms are. Also, MW 1/3 is a report of architects M/S Interior Design Consultants. This report has been filed by the Respondent to contend that the report certifies that the furniture and workstations used by the Respondent conforms to international standards. The Workman has objected to marking this document as an exhibit since the same was a photocopy and the MW 1 did not prepare the said report nor was involved in the study. Even otherwise, said report clearly acknowledges that bad furniture and prolonged use of computers is a health hazard and causes Repetitive Stress Injury (RSI).

(l) “.....I am not aware if any other member of QIK Message Editing team have any complaints of any health problem. It is correct that complaints if any were not supposed to be made to me. The ME Team Manager was Indu Lal was the person to inform. It is incorrect to suggest that Rupali Kashyap, Sargam Moli Sood ever complained for similar problem as Workman. It is incorrect to say that I am not aware of such complaints because I am not the supervisor of the team.....”

The Respondent’s sole witness has stated that the Workman was the only person who had complained in the office. She has denied that the name of the other employees from the same team who had made similar complaints. Whereas, she then states that she does not know if the complaints were made since they would have been made to Ms. Indu Lal the supervisor. She admits that she is not the concerned person to whom such complaints could be made and that she wasn’t aware if such complaints were made. Therefore, her evidence that the Workman was the only employee to have complained is false.

(m) “.....the Workman was offered a position in customer service department in which she would have required to interact with the customers, to meet customers, it was minimal computer based and sedentary job. I am not aware of the position offered to the workman in the customer service department

was two grades lower than the Workman was at. I am not aware if the position offered to the workman in the above department was usually given to temporary employees of the Company. I am not aware of what terms and conditions were offered to the Workman in customer service department the same would have mentioned in the contract if any she would have accepted the said position. The offer would have been made by me personally the same would have been handled by the HR department. It is incorrect to suggest that the terms and conditions offered to the workman in the aforesaid department were inferior to those of the workman.....”

The sole witness of the Respondent stated that the Workman was offered an alternate job before termination and the said job was not inferior to the Workman’s earlier job. However, she also stated the she did not know what terms and conditions of the new job were and the HR department would have known that. Therefore, her entire evidence that the alternate job and the terms and conditions thereof is not reliable as she did not know anything and was not the right person in the Company to give evidence on the same.

(n)“.....it is incorrect that in the new job the Workman was required to do night shifts at the airport unlike her previous position. I am not aware if the workman had applied for medical leave, voluntary unpaid leave due to her medical condition and the same was declined to her. I can not say if similar leave was granted to other employees. It is incorrect to suggest that the Workman was required to do overtime of about 100 hours in a month at time when she was working as QIK Scriptor.....”

The Respondent’s witness was not aware of anything. She deposes contrary to the Company’s stand when she says that workman was not required to work in night shifts at the airport in the alternate job, whereas the Company herself has told her that the alternate job was a night shift job and it’s a normal thing in an airlines job and other women employees to do it. The witness keeps repeating that she does not know of anything but makes statements in denial of the Workman’s claim. She does not know about overtime or that the Workman was denied leave etc. The entire evidence of MW1 has no evidentiary value.

It is relevant to mention here that this Industrial Dispute has been referred to this Tribunal for adjudication.

It is also relevant to mention here that schedule to aforesaid reference contains Ist and main question of determination as follows:-

“Whether the action of the management of British Airways, 11th Floor, Sh. Gopal Das Bhawan, Barakhamba Road, New Delhi in terminating the

services of Ms. Rachana Verma Message Editing scripter w.e.f 12.08.2004 is just, fair and legal?

Which in itself indicates that burden to prove this question of determination is on management as per provisions of Indian Evidence Act.

To prove this question of determination management could only examine MW1 Ms. Rajanee Balam .

Her statement has been referred above. Wherein she could not prove the facts required to be proved in support of case of management. So , evidence of management is short of required evidence. Moreover MW1 Ms. Rajanee Balam admitted certain facts favorable to workman/claimant. In addition to it pleadings of written statement in want of evidence are waste papers.

While on the otherhand workman/claimant has proved her case. Through her oral and documents reliable, credible and un rebutted evidence. Which is supported with latest principles of law. Hence question of determination No.1 is liable to be decided in favour of workman /claimant and against management. Which is accordingly decided.

Now, it is to be determined to what relief is the workman/claimant is entitled?

It is relevant to mention here that workman/claimant through her reliable and credible evidence had proved that during her employment claimant/workman worked on the computers. The furniture provided to the claimant/workman by management did not conform to advisable ergonomic standards.

The workman/claimant has contracted an occupational disease due to prolonged, strenuous and excessive working on computers. The job profile itself required strenuous computer operations. The company doctors have diagnosed the workman to be suffering from Repetitive Stress Injury (R.S.I) and had advised her to take up jobs with no or minimum use of computers.

Either through her evidence or undisputed fact workman/claimant has proved following facts in her favour.

### **Facts in Brief**

1. The workman was appointed by the Respondent on 21.2.1994 and was confirmed on 21.5.1994 as International Tele Sales Support Clerk.
2. Workman was promoted as Message Editing Scripter on 19.6.2000. The Workman was selected for the above position by the management after she had passed an examination for the said position.
3. Both, as Tele Sales Support clerk and Message Editing Scripter the Workman worked extensively on computers for long hours. Workman is trained as a computer programmer.

4. The Workman's job profile required the workman to work for long hours on computers, which also included working on a type of computers called 'dual set'. It is a two computer system where the machine has two screens and two keyboards. Working on such machine is more stressful than a regular computer.

5. Throughout her time with the Respondent, the Workman was graded as very good worker. She received various certificates and appreciations and praises for her work from the management. The certificates of appreciation etc. are exhibited as Exhibit WW 1/4.

6. Due to extensive working on computers for long hours the Workman suffered from Repetitive Stress Injury (RSI), which affected her hands and neck resulting in loss of control over the same. Workman found it difficult to operate computers and had to take medical leave for undergoing treatments.

7. Respondent got the Workman examined by their own doctors who diagnosed that the Workman was suffering from RSI and should not work on computers or take up a job with minimal computer operations. Two Company doctors examined the Workman who reported the same diagnosis. Doctor's reports are dated 11.2.2004 and 12.2.2004. The reports are not marked as exhibits either in the Workman's evidence or Respondent's evidence but the same have been filed and relied upon by the Respondent.

8. Services of the Workman were terminated on 12.8.2004 (Ex-WW1/5) after declaring the Workman medically unfit.

### **Workman's Contentions**

1. The termination on medical grounds would amount to retrenchment as defined under Section 2 (00) of the Industrial Dispute Act.
2. The Respondent has victimized the Workman for the following reasons:
  - a) The alternate job offered by the Respondent vide their letter dated 2.6.2004 was just an eye wash.
  - b) The alternate job offered was a shift job dealing with missing baggage handling claims at the airport. It involved night shifts and public dealing. Whereas the Workman's original job did not involve night shifts or public dealing.
  - c) The alternate job was not consistent with the Workman's qualification and skills of a computer programmer.
  - d) The Respondent did not disclose what efforts were taken by them to find a suitable alternate position for the workman. Respondent did not disclose if there were any other positions that were

available and why only airport job with night shifts was offered to her. Only one option was provided by the Respondent with a condition of 'take it or leave it', that too in a very different profile than the workman's own profile and position.

e) It was duty of the Respondent to look for a suitable alternate position for the workman.

f) No terms and conditions of the new job were disclosed to the Workman. Workman could not undertake night shifts since she had a very young daughter at home and her husband had a touring job for which reason she could not leave the child at home at night.

g) She informed the Respondent about her problem and asked for another option. The Respondent refused to accommodate and the Workman therefore declined the airport job. (Ex-WW 1/12)

h) The airport position in night shift was clearly an attempt to victimize the Workman and it was not a genuine offer. Even earlier, the emails of the Workman requesting for sick leave were turned down by the Respondent. (Ex-WW 1/10)

i) The Respondent wanted to set an example for others since the Workman had questioned the unhealthy working conditions offered by the Respondent. Threatening emails of the management have been exhibited as Ex-WW 1/11.

J) The furniture provided to the employees working in computers is not designed as per the standards that the Respondent's parent company follows for its employees in England.

k) Workman complained about the ill designed workstations but the Respondent ignored her complaints.

l) Other workers too have suffered similar medical problems and have complained but they have been repressed from speaking up making an example of the Workman for others by terminating her services.

It is a case in which management has adopted unfair Labour Practice towards workman/claimant.

In the instant case workman/claimant was suffering from Repetitive Stress Injury (R.S.I) which caused to her due to non-providing of required furniture like furniture which is provided in parent company in England.

Instead of providing required furniture by management to workman/claimant. Management changed the job of workman/claimant. In which workman/claimant had to work in night shift and that too at a airport. Although, management was well conversant with the fact that workman/claimant had a young daughter and her husband has a touring job. This alternate was chosen by

management not to adjust the workman/claimant but to harass her so that she may compel to leave the job and ultimately management terminated job of workman/claimant on 12.08.2004.

So such egoist approach of management comes within the ambit of unfair labour practice. Which is unwarranted under Labour Laws and on moral grounds.

In the circumstances of the case best effort of management must have been to provide required furniture like furniture which is provided in parent company in England.

This was the just fair and legal option to be exercised by management.

In this circumstances I am of considered view that workman Smt. Rachana Verma is liable to be reinstated with full back wages. She is accordingly reinstated with full back wages with the direction of management to provide her required furniture like furniture provided to its employees in parent company in England.

However, it is made clear that expenses incurred in such furniture shall be borne by management and workman in equal proportion.

Reference is liable to be decided in favour of workman/claimant and against management. Which is accordingly decided and management is directed to reinstate the workman /claimant Smt. Rachana Verma alongwith full back wages and management is also directed to provide required furniture to workman which is provided to employees in parent company in England. However, expenses incurred in preparation in requiring furniture shall be shared by management and workman in equal proportion.

Dated:-30/1/2015

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 10 फरवरी, 2015

**का.आ. 288.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ.सी.आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 17/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/02/2015 को प्राप्त हुआ था।

[सं. एल-22011/1/2012-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 10th February, 2015

**S.O. 288.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2012)



of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Northern Zone, Food Corporation of India, Food Corporation of India, Punjab, Food Corporation of India, F.S.D., Food Corporation of India and their workmen, received by the Central Government on 10/02/2015.

[No. L-22011/1/2012-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,  
PRESIDING OFFICER, CENTRAL GOVT.  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,  
CHANDIGARH**

**Case No. ID 17 of 2012**

Reference No. L-22011/1/2012-IR(CM-II)  
dated 10.09.2012

Sh. Amar Nath, R/o H.No.1491,  
Sector 49, Pushpak Complex,  
Chandigarh

...Workman

#### Versus

1. The Executive Director,  
Northern Zone,  
Food Corporation of India,  
Noida, Uttar Pradesh.
2. The General Manager,  
Food Corporation of India,  
Punjab, Sector-31A, Chandigarh.
3. The Area Manager,  
Food Corporation of India,  
Sirhind Road, Patiala (Punjab).
4. The Manager, F.S.D.,  
Food Corporation of India,  
Amloh, Distt.Patiala,  
Patiala (Punjab)

...Respondent

#### Appearances :

For the Workman : Sh. Manmohan Singh  
For the Management : Sh. N.K.Zakhmi Advocate

#### AWARD

Dated : 30.01.2015

Government of India Ministry of Labour vide notification L-22011/1/2012-IR(CM-II) dated 10.09.2012 has referred the following dispute to this Tribunal for adjudication:

#### Term of Reference:

“Whether the demand of Sh.Amar Nath, Ex-Head Watchman against the management of the Executive Director, Northern Zone, Food Corporation of India, Noida/the General Manager, Food Corporation of

India, Punjab, Sector 31A, Chandigarh/The Area Manager, Food Corporation of India, Sirhind Road, Patiala/The Manager, F.S.D., Food Corporation of India, Amloh, Dist.Patiala in dismissing from services w.e.f. 12./13.09.2006 is just, valid and legal? What benefits the workmen are entitled for and what directions are necessary in the matter?”

2. On receipt of the reference, notices were issued to the parties. Workman filed claim statement stating therein that the workman was elected All India President of FCI Class IV employees Union and was declared as Protected Worker. The workmen in his capacity of President of the Trade Union, made complaints against Senior Regional Manager Punjab, to the Prime Minister of India regarding large scale corruption by Senior Regional Manager Punjab. The complaint was also sent to Chairman, Food Corporation of India along with affidavit. CBI enquiry was sought in the complaint but to save the corrupt officers, a departmental enquiry was ordered by the Head Quarter Food Corporation of India New Delhi. Head office squad concluded that the allegations have been found unsubstantiated. Complaint of the workmen was filed on 20.08.1993 without recommending any action by the management. The authority other than against whom the complaint was made, issued a charge sheet dated 4.12.1996 to the workman on the basis of same complaint and on some another anonymous complaints containing the following charges:

“**ARTICLE No.I:** The petitioner while working as Head Watchman preferred a complaint under his own signatures to the different authorities by leveling allegations/charges in question, he inter alia, alleged that the then Senior Regional Manager, Punjab, Sh.Sudhir Mittal, IAS was looting the Corporation with the help of Sh.Sushil Nagpal, the then District Manager, Patiala. It was also alleged that Sh.Sushil Nagpal was posted as Dist.Manager, Patiala after shifting Sh.Harnaik Singh, Dy.Manager(Genl.) a known honest officer. He also alleged that Sh.R.K.Jain, Distt.Manager, Sangrur was an agent of Sh.Sudhir Mittal, IAS, Senior Regional Manager, who continued to act as Distt.Manager even when Sh.Jain met with an accident and got fracture. It was also mentioned in the complaint in question that Sh.Nagpal collected crores of rupees by corrupt practices for Sh.Sudhir Mittal, and even Sh.Sudhir Mittal collected Rs.100/- per consignment of rice accepted from all the Distts. of Punjab thereby amassed crores of rupees continuing in the same breath, he further spilled venom when he recorded that the rice stocks accepted were rejected at many centres like Kurali etc. It was also alleged that Sh.Sudhir Mittal never drew any sample during his visit. It was also alleged in the said complaint that Sh.Sudhir Mittal in collusion with Sh.Sushil Nagpal

has put FCI to a loss by unwise linking of Regional Manager collected lacs of rupees from Sh. Tanwar Security Contractor and also by adopting pick and choose policy of transfer.

The allegations so projected by the said Sh. Amar Nath were got investigated by FCI, Headquarters. After screening of the record in depth, it was noticed that there was no truth in any of the allegations. The investigating authorities did not find any substance in the allegations and the same were found to be unsubstantiated.

The said Sh. Amar Nath by doing so committed a gross misconduct which was in violation of the conduct Regulations embodied in the FCI (Staff) Regulations, 1971.

**Article No. II :** An anonymous complaint purported to have been sent by Sh. Ramji Dass of Patiala was received in the FCI Hqrs. New Delhi, which was addressed by name to Managing Director, Chairman and the Executive Director, (Vigilance). The said complaint contained allegations to the effect that the said Sh. Amar Nath had been indulging in various acts of indiscipline and blackmailing the officials/officers of FCI by remaining absent from duty. It was also alleged that he did not disclose the fact of conviction by the Hon'ble Court. It was also mentioned in the said complaint that he has taken one rice mill on lease under the name and style of M/s. Sun Rice Mill at Rajpura. It was also indicted in the said complaint that the said Sh. Amar Nath participated in various tender enquiries under the bogus names and later on after getting huge amounts, he used to resile from the tender enquiries one of the case cited was of M/s. Malhi and Co. Rajpura.

Since the said complaint contained serious allegations, the preliminary enquiry in the contents of the said complaint was got done through Headquarters Squad. The Hqrs. Squad after holding detailed enquiry held that the said Sh. Amar Nath was convicted by the Court twice. The allegations relating to his absence from duty too was proved. It was also observed by the quad that the address in the tender form given by Sh. Baldev Krishan (having 10% share) for M/s. Malhi and Co. Rajpura was House No. 3049, Sector 47-D, Chandigarh which was the residential address of the said Sh. Amar Nath which implied that the said Sh. Amar Nath was having direct interest in the tender in question.

By committing the above misconduct, he has rendered himself liable for strict disciplinary action as his conduct was unworthy of an employee of the Corporation. He is thus charged of flagrantly violating the provisions of Regulations 31, 32 and 32(A) of FCI (Staff) Regulations, 1971."

3. Enquiry Officer was appointed by the same authority and the case was decided by the same authority in negation of standing instructions of Central Vigilance Commission and Food Corporation of India Head quarter.. Enquiry has not been conducted fairly and properly. As the enquiry officer has acted under the influence and instructions of the authority against whom the complaint was made and enquiry officer did not consider the evidence of defence. It is further pleaded by the workman that he was illegally dismissed from service by the same authority vide order dated 05.05.2006. It is further pleaded by the workman that he made a genuine complaint and demanded CBI enquiry by giving affidavit. The chairman of the FCI closed the complaint without recommending any action against the complainant. It is further pleaded that the workman was dismissed from service out of vendetta and without any legal cause because he was a trade union leader. The workmen prayed that the enquiry may be declared as vitiated and he may be reinstated in service with all benefits.

4. Management filed written statement and submitted a detailed reply. Management pointed out that the workmen while working as head watchman preferred a complaint leveling allegations/charges against the then Senior Regional Manager Punjab Sh. Sudhir Mittal IAS and Sh. Sushil Nagpal. Workman also alleged that Sh. R.K. Jain, District Manager was an agent of Sh. Sudhir Mittal. The allegations projected by the workman were got investigated by FCI Headquarter through senior level officers of the head quarter and it was noticed that there was no truth in the allegations. Workman by doing so committed a gross misconduct which was in violation of conduct regulations embodied in the FCI (Staff Regulations) 1971. An anonymous complaint purported to have been sent by Sh. Ramji Dass. The said complaint contained allegations that workman indulging in various acts of indiscipline and blackmailing officials/officer of the FCI by remaining absent from duty. It was also alleged that workman did not disclose the fact of his conviction by the Court. It was also mentioned that the workman has taken one rice mill on lease under the name and style of M/s. Sun Rice Mill at Rajpura. It is further alleged that workman indulges in tender enquiries. Preliminary enquiry got done and it was found that Sh. Amar Nath (workman) was convicted by the Court twice. The allegations relating to his, absence from duty too were proved. It was also found that workman was having direct interest in the tenders in question. For committing these misconducts, workman was directed to submit a written statement of his defence. Workman did not submit reply to the memorandum in the stipulated period. Enquiry officer was appointed. Enquiry officer issued notices to both the parties for appearances for enquiry proceedings. Workman appeared on 18.7.2005 and 02.08.2005 and confirm having receiving the charge sheet. A copy of the charge sheet in Hindi was

given to the workman and read over to the workman. Workman denied the charges. Workman inspected the prosecution documents and the workman was permitted to engage a defence assistant for himself. Subsequently the workman submitted a list of additional documents for his defence. Since the documents asked for were not specific, these could not be made available. Presenting officer examined four prosecution witnesses, three of whom were cross-examined by the workman. PW 4 could not be cross-examined by the workman and the proceedings were held ex parte on 24.1.2006. The enquiry officer submitted his report to the disciplinary authority on 28.2.1006. The charges were found to be proved against the workman. The disciplinary authority sent a copy of the enquiry report to the workman through Area Manager, Patiala dated 1.4.2006 and in turn forwarded the same memo along with the enquiry report to Manager Amlah for servicing upon the said official. As per report of the Manager dated 4.4.2006, it could not be served as the workman did not attend the duty on 3.4.2006 and 4.4.2006. District Office Patiala sent two copies one by Registered post and one by courier at his known address at Chandigarh. But these communications were received back undelivered with the remark that "left the house, address unknown". Later on DM vide his letter dated 12.4.2006 apprised that he attempted to serve the copy of enquiry report on 12.4.2006 but the workman flatly refused to acknowledge the same. Workman has will fully avoided the receipt of the enquiry report. Manager in order to afford reasonable opportunity, a press note got published in two vernacular papers namely Ajit and Punjab Kesri on 21.3.2006 but the workman neither collected enquiry report nor submitted any representation. Disciplinary authority vide order dated 5.5.2006 passed a detailed order wherein the workman was awarded penalty of dismissal from service and gratuity was forfeited. Aggrieved by the order of the disciplinary authority, the workman moved an appeal before the Appellate Authority i.e. Executive Director. Appellate Authority after carefully examining the appeal along with record, charge sheet, enquiry proceedings, enquiry report and also hearing the workman in person on 25.8.2006 and further his representation submitted on 25.8.2006, the workman appeal was rejected by the appellate authority. Aggrieved by the order of the Appellate Authority, the workman submitted a review petition. The reviewing authority also find no merit in the review petition however the reviewing authority waived off the penalty to the extent of forfeiture of gratuity. The rest of punishment of dismissal from service was upheld.

5. The management in reply also submitted that FCI cannot ask the Central Bureau of Investigation directly to make investigation when FCI has its own mechanism to deal such types of complaints. Management conducted the investigation through Sh. S.K.Singhal, Executive Director FCI and Sh. P.K.Mathur, Joint Manager Vigilance. The enquiry officer has conducted a fair and proper

enquiry and the workman was given full opportunity. Management also mentioned in its written statement that principle of natural justice has not been violated. The workman was not charge sheeted by the officer against whom he had made the complaint.

6. After hearing and going through the rival contentions of the parties, following preliminary issue was framed vide order dated 17.5.2013:

"Whether the departmental enquiry held against the workman is fair and proper adhering to the principles of natural justice."

7. Both the parties were given opportunity to argue the case on the fairness of enquiry. This Tribunal after hearing the parties, vide order dated 23.7.2013 held the enquiry as proper and valid while passing the following order:-

"From the perusal of the file, it is clear that the proper and fair procedure was followed in the departmental enquiry. Copy of the enquiry report was offered to the workman but the workman deliberately refused to accept. Thereafter the management got the notice published in two Newspapers. It is evident from the record that after passing of the order by the disciplinary authority, the workman filed appeal before the appellate authority and he was given personal hearing also. It is revealed that he also made representation to the appellate authority who rejected his appeal after going through all the record and after giving him personal hearing. From the record it is also evident that he filed review petition and the reviewing authority also substituted the punishment by releasing the gratuity but other punishment remains the same. Thus the workman has failed to show that he was not given proper opportunity to defend himself during enquiry. Every possible effort was made by the enquiry officer to provide him the reasonable opportunity. Therefore, taking into consideration material on the record and submission of the parties, it is held that enquiry was conducted in a fair and proper manner and the workman was given reasonable opportunity to defend himself and the enquiry was conducted in accordance with the principle of natural justice."

8. The parties were given opportunity for hearing on the point of perversity and on quantum of punishment and were also allowed liberty to adduce any evidence in this regard.

9. The learned representative of the workman made a statement on 21.08.2014 that he do not want o adduce any additional evidence on perversity and quantum of punishment and close the same.

10. The management filed affidavit of Vivek Gupta as Ex.M1 in evidence. This witness was cross-examined by the authorized representative of the workman.

11. I have heard the parties on perversity and on quantum of punishment.

12. It is the admitted case of the parties that the workman was charge-sheeted vide memorandum dated 04.12.1996. and enquiry officer was appointed who conducted the inquiry which was held to be fair and proper. The learned representative of the workman submitted that the inquiry officer arrived on the conclusion which is perverse to the evidence recorded during inquiry. It is further submitted by the learned counsel for the workman that Article-I was proved wrongly against the workman by the enquiry officer as the evidence recorded during the inquiry proceeding goes in favour of the workmen in as much as PW2 Sushil Nagpal submitted during inquiry in his statement that charged official did not misbehave with him. The statement of PW1 Harnaik Singh and PW3 Sher Singh also not going against the charged official. As regard charge No.2 is concerned, it is partly proved by the inquiry officer. It is further submitted by the learned counsel for the workman that in one of the case, the workman was convicted by the trial court but appellate court acquitted him in appeal. In the second case he was given benefit of probation under the Probation of Offenders Act. Therefore, the findings of the inquiry officer are perverse and the enquiry deserved to be vitiated and the workman is entitled for reinstatement with all benefits.

13. On the other hand learned counsel for the management submitted that this court vide order dated 23.07.2013 also held that inquiry was conducted fairly and properly and Article-I was proved fully against the workman during the inquiry and charge No.2 was proved partly. As regard charge No.2 is concerned, in one of the case, the workman was convicted by Sub-Divisional Judicial Magistrate, Nabha on 01.08.1985 and in the second case, he was convicted by Judicial Magistrate First Class, Chandigarh on 11.11.1993 and sentenced to six months with Rs.500/- as fine and one month rigorous imprisonment respectively. In the first case he was acquitted in appeal and in the second case the workman was given benefit of probations by the Appellate Court. This fact the workman never disclosed to the management. Therefore, the workman is guilty of concealing this fact from the office. As regard charge No.1 is concerned, workman was charged for making false and malicious complaint against the officers and these allegations as made by the workmen, got investigated by the Headquarter and found to be false. During inquiry, this charge has been proved against the workmen that he was indulging in making false and malicious complaints against the officers. The workman violated FCI staff regulations. Discipline is the back bone for any institution and if this discipline is violated, then no institution can work effectively.

14. During arguments, the learned counsel for the management further submitted that once it is held by the Court/Tribunal that inquiry has been conducted fairly and

properly then Industrial Tribunal is not to sit as a Appellate Court on the finding of the inquiry officer. It is further submitted by the learned counsel for the management that after rejection of the appeal of the workman by the appellate authority, workman filed review application. The reviewing authority did not find any merit to alter the punishment of dismissal from service. However taking a lenient view, the reviewing authority waived off the penalty to the extent of forfeiture of gratuity. The learned counsel for the management submitted that the workman was guilty of serious misconduct and also convicted in one of the case and was given the benefit of probations and guilty of concealing material facts from the office. Therefore, the workman is not entitled for relief and the reference deserves to be rejected.

15. The workmen failed to point out any perversity in the findings of the inquiry officer. So far the quantum of punishment is concerned, reviewing authority had already taken lenient view in releasing the gratuity. Therefore, taking into consideration the facts and circumstances of the case, it would be unwarranted to interfere in the punishment awarded to the workman which is proportionate to the gravity of mis-conduct. As workman fails to point out any perversity, therefore, it is held that there is no perversity in finding of the inquiry officer and the finding of the inquiry officer is exclusively bases on the evidence recorded during the course of inquiry.

16. From the record, it is amply clear that workman was charge-sheeted. The inquiry officer was appointed. The enquiry officer after conducting the enquiry fairly and properly submitted his findings proving charge No.1 as fully proved and charge No.2 partly proved. This court vide order dated 23.7.2013 after hearing the parties and taking into consideration the facts and finding of the inquiry officer, held that inquiry was conducted fairly and properly. Therefore, the workman is not entitled to any relief.

17. Reference is answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

30.01.2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 10 फरवरी, 2015

**का.आ. 289.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 54/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/02/2015 को प्राप्त हुआ था।

[सं. एल-22012/300/1998-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी



New Delhi, the 10th February, 2015

**S.O. 289.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Eastern Coalfields Limited and their workmen, received by the Central Government on 10/02/2015.

[No. L-22012/300/1998-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

**PRESENT :** Sri Pramod Kumar Mishra, Presiding Officer

**REFERENCE NO. 54 OF 1999**

#### PARTIES :

The management of B. C. Incline, ECL

**Vs.**

Sri Ram Swarup Paswan

#### REPRESENTATIVES :

For the management : Sri P. K. Goswami,  
Ld. Advocate

For the union (Workman) : Sri Manoj Mukharjee,  
Ld. Advocate

Industry : Coal State : West Bengal

Dated: 20.01.2015

#### AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/300/98/IR(CM-II) dated 26/27.05.1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

#### SCHEDULE

“Whether the action of the management of ECL, B.C. Incline, Po: Sitarampur in dismissing Sh. Ram Swarup Paswan is legal and justified? If not, to what relief is the workman entitled?”

Having received the Order No. L-22012/300/98/IR(CM-II) dated 26/27.05.1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 54 of 1999 was registered on 07.06.1999. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written

statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative and filed their separate sets of written statement in support of their respective claims.

The workman's case in a nut shell is that he was working in B.C. Incline at Sitarampur Area since 01.06.1974. The workman was ailing and he remained under treatment from 20.05.1993 to 09.09.1993 under the treatment of doctor of Sanctoria Hospital. The workman informed the management for showing the name in the sick list register or in the company's record. But the Manager whimsically issued a charge sheet being no. BC/PAT/C-6/93/03A/735 dated 23.11.1995. The management set up a domestic enquiry against the workman but the workman requested the enquiry officer to examine Dr. S.K. Shah who had treated the workman, but the enquiry officer paid no heed. The management without giving proper opportunity to workman passed the dismissal order on 21.03.1994 vide letter no. BEJ/TAR/C-6/94/03A/183 dated 21.03.1994. Although Dr. S.K. Shah who was later on posted at SPEL Bindi, Sripur Area Hospital issued letter on 21.04.1994 to the Manager / Welfare Officer, B.C. Incline, Sripur Area informing that Sri Ram Swarup Paswan was suffering from Jaundice and he was advised to take bed rest from 20.09.1993 to 09.09.1993. But even then the management did not examine Dr. S.K. Shah. The Enquiry Officer as well as management has not given proper opportunity to defend the workman and thus violated the principle of natural justice. The workman has prayed that award may kindly be passed by the Tribunal to set aside and to declare dismissal of Sri Ram Swarup Paswan as illegal and order for reinstatement of workman with full back wages and other fringes and benefits.

The management has stated in his written statement that Sri Ram Swarup Paswan absented from duty from 20.05.1993 without any leave or any information to Colliery. On submitting Medical Certificate, Sri Ram Swarup Paswan was permitted to join duty. Later on it came to the knowledge of the management that the Medical Certificate produced by Mr. Paswan in support of his illness was manufactured for the purpose of getting excuse for his absence. Therefore, Mr. Paswan was charge sheeted for the act of producing false certificate vide charge sheet No. BC/PAT/C-6/93/03A/735 dated 25.11.1993. After receiving reply, departmental enquiry was conducted after giving full opportunity to Mr. Paswan to defend himself. From the evidence adduced by the parties and after perusing the report received from Dr. Sinatal, M.S. C.M.O. Cell, ECL/H.Q./Sanctoria vide Ref. No. ECL/C-5(E)/CMO/CONFI/93/1844 dated 13.10.1993 as well as confirmation report received from Ch. Vigilance Officer, /ECL/H.Q. under Ref. No. ECL/C-5(E)/CMO/CONFI/93/1864 dated 13.10.1993.

After perusing the report of Enquiry Officer the management dismissed Sri Ram Swarup Paswan from service. Mr. Paswan has raised dispute before the Assistant Labour Commissioner after lapse of five years without any reason as such for the reasons unexplained delay.

The workman has filed additional written statement. He has reiterated the allegation of written statement already submitted by him.

The workman has filed certificate of doctor, the report of doctor and the letter of doctor to the Manager, B.C. Incline. The workman namely Sri Ram Swarup Paswan has been examined as PW1. He has examined PW2 and in support of his allegation. The management has filed the copy of Charge Sheet, Enquiry Proceeding, Enquiry Report, Dismissal Order, letter of Sri S.K. Chowdhury, Joint Secretary to A.L.C, Doctor's Certificate, letter of Dr. S.K. Shah to manager, the Medical Certificate of Dr. S.K. Shah and out door patient slip of Eastern Coalfield Limited dated 1st April, 5th May and 5th July. The management has not examined any witness.

I have heard the argument of Sri Manoj Mukherjee, Ld. Advocate appearing on behalf of workman and Ld. Advocate Sri P.K. Goswami appearing on behalf of the management.

Ld. Advocate Mr. Manoj Mukherjee has argued that PW2, Dr. S.K. Shah has proved the medical certificate of workman namely Sri Ram Swarup Paswan. Therefore the plea of management is that the medical certificate issued by Dr. S.K. Shah and submitted by workman is concocted and false is wrong. The workman due to his sickness for a period of 3 and ½ months and due to compelling circumstances did not come on duty and there was no willful absence on duty.

On the other hand Mr. P.K. Goswami, Ld. Advocate has argued that the evidence of PW2 and PW1 there is a contradiction. Hence the workman is not entitled to get any relief.

It is an admitted fact that Sri Ram Swarup Paswan was coal face worker in B.C. Incline colliery at Sitarampur since 01.06.1974. The case of workman is that the workman was ill. He had undergone treatment of Dr. S.K. Shah the then doctor of Sanctoria Hospital. Therefore, due to his sickness he was absent from duty under compelling circumstances. On the other hand the case of the management is that the workman namely Sri Ram Swarup Paswan remained absent from duty without any permission. On producing the medical certificate he was permitted to join his duty. But on verification the medical certificate was found to be false. Therefore, after domestic enquiry the concerned workman was dismissed from service.

On perusal of charge sheet no. BC/PAT/C-6/93/03A/735 dated 25.11.1993 it transpires that charge sheet to the delinquent workman has been framed on 25.11.1993 on two counts.

“17(i)(a) - Theft, fraud, dishonesty in connection with the employer business or property.

17(i)(n) - Continuous absence without permission and without satisfactory cause for more than ten days.”

As per version of the management after receiving the reply of charge sheeted workman the Enquiry officer for domestic enquiry was appointed. Though there is no copy of reply of charge sheeted workman, the above charge sheet is on record.

“Reasonable opportunity means not only framing of charges and asking for explanation but much more”. The employee must be apprised of the material on which the charges were framed so that he could have a proper opportunity of testing or challenging that material so far as would be possible for him. The Rules of Natural justice require that when a fact is sought to be proved before a tribunal, it must be supported by statement made at his back. The basic requirement of fair opportunity is that enquiry must be conducted with honesty and in bonafide manner with a view to determine whether the charge framed, against particular employee is proved or not. Care must be taken to see that the enquiry does not become formality. In dealing with domestic enquiry in industrial matters, the fact that in large majority of cases employers are likely to be illiterate and ignorant. The enquiry officer has to take care in the facts and circumstances of the case that the defence of workman is not prejudiced in any manner.

The management in ‘Para 7’ of the written statement has alleged that “from the evidences adduced by the parties and after perusing the report received from Dr. Sinatal, M.S. C.M.O. Cell, ECL/H.Q/Sanctoria vide ref no. ECL/C-5(E)/CMO/CONF/93/1844 dated 13.10.1993 as well as confirmation report received from Ch. Vigilance Officer, ECL/HQ under ref. no. ECL/C-5(E)/CMO/Conf/93/1864 dated 13.10.1993.

But in the Charge sheet the report of Dr. Sinatal and confirmation report of vigilance officer has not been referred. It is relevant to mention here that the above report is basis of departmental enquiry. On the report of doctor and vigilance officer the enquiry has been initiated. Therefore, it is mandatory to refer all those reports in charge sheet and copy of these reports must have been given to the delinquent employee but neither copy has been given to the delinquent employee nor it has been mentioned in the charge sheet even the report of those officers has not been filed on the file of reference of tribunal by the management.

Delinquent workman had examined Dr. S.K. Shah as PW2. Dr. S.K. Shah has proved the medical report of Sri Ram Swarup Paswan who was under treatment from 20.05.1993 to 09.09.1993. It has been exhibited as “X and Y”. Besides PW2, Dr. S.K. Shah has proved the medical certificate X/1, X/2 and X/3 respectively. Dr. S.K. Shah has been examined by the management but in his cross-examination he has supported the statement of Examination-in-Chief. Therefore, the genuineness of the medical certificate issued by Dr. S.K. Shah can not be suspected. The charge is therefore not proved.

The Hon'ble Supreme Court, in AIR 1973 SC1227, workmen of M/s. Firestone Tyre and Rubber Co., of India Private Limited V/s Management, in paragraphs 36 and 37, has held thus: Therefore it will be seen that both in respect of cases where a domestic enquiry has been held as also in cases where the tribunal considers the matter on the evidence adduced before it for the first time, the satisfaction under section 11 A about the guilt or otherwise of the workman concerned, is that of the tribunal. It has to consider the evidence and come to a conclusion one way or other. Even in cases where an enquiry has been held by an employer and a finding of misconduct arrived at, the tribunal can now differ from that finding in a proper cause and hold that no misconduct is proved.”

In an enquiry proceeding the statement of Sri Somnath Chowdhury and Sri V.K. Balabyal the management witness has been recorded. But these witnesses have not been cross examined. Delinquent workman has not given opportunity to cross examine these management witnesses which is against the principle of natural justice. Enquiry should be held impartially, objectively and after giving an opportunity of hearing to the delinquent workman. Fair opportunity and fair trial are elements of the principle of natural justice which are always applied to the facts and circumstances of a case. The elements of reasonable opportunity of being heard are that firstly, an opportunity to be heard must be given and secondly, this opportunity must be reasonable. Debarring the delinquent workman for cross-examining of the management witness is totally non-compliance of principle of natural justice.

When different category of penalties can be imposed in respect of alleged fault, the disciplinary authority is required to consult himself for selecting the most appropriate penalty from out of range of penalties available that can be imposed having regard to the nature, content and gravity.

Unless the disciplinary authority reaches the conclusion that having regard to the nature content and magnitude of the fault, committed by the employee concerned, it would be absolutely unsafe to retain him in service, the maximum penalty of dismissal should not be imposed if the lesser penalty can be imposed without seriously jeopardizing the interest of the employer. It does

more harm than good to the employee and also to the society. Before imposing punishment of discharge or dismissal fair plea requires that the delinquent workman is given reasonable opportunity to put forth his defence before the Enquiry Officer in accordance with the rules of natural justice but the employee has not been given opportunity to put his defence. Beside show cause notice before imposing punishment has not been issued by the management to the delinquent workman which is mandatory in law and clear violation of natural justice.

When the question of determining the entitlement of a person to back wages is concerned the employee has to show that he was not gainfully employed anywhere.

The initial burden on him. The Hon'ble Supreme Court in Uttarnchal Forest Development Corporation V/s. M.C. Joshi, 2007 AIR, SCW 70350 has held that the relief of reinstatement with full back wages would not be granted automatically only because it would be lawful to do so. For the said purpose several factors are to be taken into consideration. The workman was dismissed on 21.03.1994. The Joint Secretary of Koayla Mazdoor Congress has written letters to the Asansol Labour Commissioner on 01.06.1998 and 23.06.1998 regarding illegal dismissal of Sri Ram Swaroop Paswan. After lapse of 4 years the union has tried for reconciliation. Reference was made in the year 1999 when the workman has himself delayed to settle the dispute by reconciliation, therefore a workman can not get advantage of his own wrong and he should not be awarded full back wages in this context.

In view of this matter I think it just and proper to modify the same by exercising the power under section 11(A) of Industrial Dispute Act, 1947. The impugned order of dismissal is hereby set-aside and the management is directed to reinstate Sri Ram Swarup Paswan, the delinquent workman with the continuity of the service. I think it appropriate that the delinquent workman be imposed a punishment of stoppage of two increments with cumulative effect. It is further directed that the concerned workman will get 20% of the back wages from May 1999 till the reinstatement.

### ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 10 फरवरी, 2015

**का.आ. 290.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 59/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/02/2015 को प्राप्त हुआ था।

[सं. एल-22012/489/1990-आईआर (सी-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 10th February, 2015

**S.O. 290.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/1991) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 10/02/2015.

[No. L-22012/489/1990-IR(C-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/59/91**

Organising Secretary,  
RKKMS (INTUC),  
Post Chandametta,  
Distt. Chhindwara

...Workman/Union

#### Versus

The Manager,  
Tandsi Project of WCL,  
Post Rampur,  
Distt. Chhindwara

...Management

#### AWARD

Passed on this 5th day of January, 2015

1. As per letter dated 3-4-91 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/489/90-IR(C-II). The dispute under reference relates to:

“Whether the action of the management of Manager, Tandsi Project, WCL, Kanyan Area, PO Rampur, Distt. Chhindwara in dismissing from services to Shri Pradeep Kumar Arora, General Mazdoor of Tandsi Project w.e.f. 17-6-89 on the basis of the enquiry conducted without giving him an opportunity to reform is justified? If not, to what relief the concerned workman is entitled to?”

2. After receiving reference, notices were issued to the parties. As workman had failed to submit statement of claim, no dispute award was passed on 18-8-92. Application for setting aside exparte award was allowed as per order

dated 5-2-96. Ist party workman submitted statement of claim at Page 13/1 to 13/5. Case of workman is that he was initially appointed at Nandan No.1 Mine as General Mazdoor. He was transferred to Tandsi Project. He was performing duties in lamproom and various departments. He served with devotion without any adverse remarks or stigma. Chargesheet was served on him on 25-1-89 alleging misbehavior with Shri H.K. Tondon overman. Misconduct covered under clause 17-1A of standing orders. Workman had denied charges against him and replied to chargesheet. Though chargesheet was issued to him alleging misconduct under standing orders, workman submits there were no standing orders existing in WCL, Chhindwara. The standing orders were not certified. That Disciplinary Authority instead of giving any response to his explanation, decided to conduct enquiry against him. Dy. Personnel Manager was appointed as Enquiry Officer. Enquiry was conducted on various dates. That workman being member and office bearer of Union used to raise grievance of workman before appropriate forum. INTUC Union was against workman with view to victimize under undue influence. Management prosecuted false case. Workman was not given proper opportunity for his defence in Enquiry Proceedings. He was not allowed to be represented by co-worker. He was not allowed opportunity to be cross-examined. Enquiry conducted against him is not proper and legal. Proper procedure was not followed by Enquiry Officer. Therefore on the basis of such enquiry, dismissal imposed is illegal. The application for change of Enquiry Officer was rejected without proper reasons. On such ground, workman is praying for reinstatement with consequential benefits.

3. IInd party submitted Written Statement at Page 13/1 to 13/10. IInd party denied allegation and relief claimed by workman. It is submitted that on 25-1-89, while workman was on duty, he abused and threatened to kill Shri H.K. Tondon, chargesheet was issued to workman, reply given by workman was found unsatisfactory. Shri Deepak Dy. Personal Manager was appointed as Enquiry officer and Mr. G. Prasad Sr. Personnel Officer was appointed as Management's Representative. Enquiry was conducted on various dates details given in para-6 of the written Statement. Enquiry Officer submitted report that charges against workman were proved. The workman was supplied copy of Enquiry Report. Workman was engaged in act of criminal nature. Proceeding under section 107, 116 CRPC was initiated against workman. The Bond of Rs. 5000 was obtained by workman. It is reiterated that charges against workman were proved in the Enquiry proceedings. Workman had abused and threatened to kill overman Mr. Tondon. Considering nature of charges, workman was dismissed from service.

4. As per order dated 27-12-2014, enquiry conducted against workman was found proper and legal. Considering pleadings on record and order of preliminary issue, the



points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |       |  |  |
|-------|--|--|
| (i)   | Whether the alleged misconduct is proved from evidence in Enquiry Proceedings? | Charges against workman are partly proved. |
| (ii)  | Whether punishment of dismissal imposed against workman is legal and proper?   | Punishment of dismissal is not legal.      |
| (iii) | If so, to what relief the workman is entitled to?"                             | As per final order.                        |

### REASONS

5. As stated above, enquiry conducted against workman is legal and proper, question remains as to whether the charges against workman are proved from evidence in Enquiry Proceedings and punishment of dismissal is proper and legal. Workman was issued chargesheet alleging misconduct under rule 17(1)® of standing order. That on 22-1-89 around 11.15 AM, workman abused Shri S.K.Tondon overman and threatened to kill him. workman had denied charges against him. in his statement in Enquiry Proceedings, Shri S.K.Tondon MWI says on 25-1-89 he was on duty in 1st shift around 11.15 AM, CSE abused him. he had submitted report about said incident. The evidence of Shri H.K.Tondon is silent about workman threatened to kill him. what abuses were given to him by workman, the particulars are not given in his statement. In cross-examination of ShriTondon by Management's representative, he admits that workman had threatened to kill him. in his cross-examination by workman, ShriH.K.Tondon says that he was on duty. CSE was not working in his shift. The CSE had no reason to come to him. the report was submitted to police. Witness No.2 Mahesh Akhliya in his statement says that on 25-1-1999, he and foreman Nasir were working as Mechanical Fitter at Tandsi Project. CSE bused ShriH.K.Tondon and also threatened to kill him. he had specified CSE and taken him towards office. In his cross-examination on behalf of workman, he says that he was doing work of welding in front of mine No.1. in reply to Q.No.4, MW Mahesh says workman was in full sense but since past 4-5 months, he was mentally disturbed. The Mine Manager Saxena was harassing CSE. His attendance was not marked. His wages were not paid. Management's witness No. MW3 Ashok says that CSE had abused ShriH.K.Tondon. His evidence is silent about threats given by workman. in cross-examination by management's representative he claims ignorance about threats given by CSE to ShriTondon. Management's witness Nasir also says that CSE was abusing shriH.K.Tondon in cross-examination by Management's Representative. He reiterates that he had heard only oabuses. In his cross-examination, he says that he was at 50 ft. distance from Shri Tondon. Shri Tondon

was alone at that time. In statements of all that witnesses of management's he had not disclosed particulars of abuses given by CSE. The evidence about threats to kill workman is not corroborated by three other witnesses. In evidence in Enquiry Proceedings cannot re-appreciate the evidence of Appellate Authority. The legal position is settled but evidence discussed above shows that CSE has only abused. Evidence about threats given by CSE is not corroborated by other witness. The evidence of management's witnesses is silent that workman was holding any harm causing danger to life of ShriTondon therefore the particulars of abuses are also not given by any of the witnesses. Therefore the charge of giving abuses by workman proved from evidence of management's witness cannot be said of serious nature. For reasons discussed above, I record my finding in Point No.1, charge of giving abuses by workman is proved.

6. **Point No. 2 :** The charge of CSE giving threats to kill Shri H.K.Tondon is not established. Only charge of giving abuses by CSE to shriTondon is established. As per evidence on record, proceeding under Section 107, 116 3 CRPC was initiated against workman. he was not prosecuted for any offence. Therefore punishment of dismissal imposed against workman appears excessive.

7. Learned counsel for workman Shri Rajesh Chand relies on ratio held

In case of management of Shri Ganapati Bus Service Thirunelvel and Presiding Officer Labour court and others reported in 2001(1) LLN 780, their Lordship of Apex Court considering termination of service of conductor set aside by Labour Court on ground that dismissal was disproportionate to the charges, namely failure to charge for a small luggage and charging half fare instead of full fare to one passenger. Plea of employer that Labour Court did not try the question whether enquiry was valid and proper as a preliminary issue and that no opportunity was given to employer to lead evidence in support of the charge. Held since the Labour Court had found that enquiry was proper and valid, not trying the question as a preliminary issue has not prejudiced the employer in any manner..award of Labour court directing reinstatement of dismissed conductor requires no interference.

In present case, charge against CSE threatening to kill Tondon is not established. Only charge of abusing by CSE to Shri Tondon is established. The punishment cannot be said proper. The dismissal for such a charge appears excessive.

8. Next reliance is placed on ratio held in

Case of Scooter India Ltd versus Labour court, Lucknow reported in AIR 1989 SC-149. Their

Lordship considering termination of service. Disciplinary enquiry found to be fair and lawful and its findings were not vitiated in any manner. The direction of Labour Court in the facts for reinstatement of employee with 75 % back wages on ground that erring workman should be given opportunity to reform himself and prove to be loyal and disciplined employee of company was held not illegal and arbitrary. Their Lordship held Disciplinary Enquiry found fair and interference in reinstatement by Labour Court is thereafter not illegal.

In present case, enquiry conducted against workman is found proper and legal. However charge of CSE threatening to kill Shri Tondon cannot be proved from evidence. The charge CSE abusing Shri H.K. Tondon is proved, particulars of abuse is not disclosed by any of the witnesses. Punishment of dismissal need to be modified to stoppage of two increment with cumulative effect. In my considered view, reinstatement of workman with continuity of service and 40 % back wages would be proper. Accordingly I record my finding in Point No.2.

9. In the result, award is passed as under:-

- (1) The the action of the management of Manager, Tandsi Project, WCL, Kanyan Area, PO Rampur, Distt. Chhindwara in dismissing from services to Shri Pradeep Kumar Arora, General Mazdoor of Tandsi Project w.e.f. 17-6-89 on the basis of the enquiry conducted without giving him an opportunity to reform is not proper and legal.
- (2) Dismissal of Ist party is modified to stoppage of two increments with cumulative effect. IInd party is directed to reinstatement workman with continuity of service and 40 % back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 फरवरी, 2015

**का.आ. 291.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबंध निर्यातकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 63/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/02/2015 को प्राप्त हुआ था।

[ सं. एल-22012/281/2004-आईआर (सीएम-II) ]

मो. जाहिर शरीफ, अनुभाग अधिकारी

New Delhi, the 10th February, 2015

**S.O. 291.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 63/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial

Dispute between the management of South Eastern Coalfields Limited and their workmen, received by the Central Government on 10/02/2015.

[No. L-22012/281/2004-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/63/05

The Secretary,  
Samyukta Koyla Mazdoor Sangh (INTUC),  
C/o Sanjay Mishra, Telephone Exchange,  
PO Kotma Colliery,  
Distt. Shahdol ...Workman/Union

Versus

Chief General Manager,  
Jamuna & Kotma Area,  
SECL, PO Jamuna,  
Distt. Annupur (MP) ...Management

#### AWARD

Passed on this 13th day of January, 2015

1. As per letter dated 11-7-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/281/2004-IR(CM-II). The dispute under reference relates to:

“Whether the action of the Chief General Manager, Jamuna & Kotma Area of SECL in not promoting Shri Rambahadur Vishwakarma, Electrician SLU-B to the technical and supervisory Grade C w.e.f. 25-9-98 and Grade B from 2001 and also not making payment of difference is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 3/1 to 3/4. Case of Ist party is that on 1-4-03, he was appointed and working on the post of Electrician SLU Grade B. That as per cadre scheme for Electrician Grade B he was entitled for consideration for promotion to the post of Asstt. Foreman Electrical, T&S grade C. workman being senior most electrician Grade B was due for consideration for promotion. DPC was held by management in 1998. Junior to workmen were considered by DPC for promotion. Workman was not considered. In DPC of 1998, 38 persons were considered. Workman was excluded. That proceeding of DPC reveals the juniors to the workman were considered like Ram Vishal S/o Shri Mahadeo. His name was at Sl. No. 29 of DPC proceeding. Said Ramvishal was from batch of workman. The result of DPC was published. Order

promoting 12 persons to the post of Asstt. Foreman T&S Grade C was issued on 25-9-98. All the persons promoted were junior to the workman. Workman had submitted representations to the management but his representations were not considered. He has raised dispute before ALC. Management submitted incorrect reply. The conciliation proceedings failed and dispute has been referred. Workman reiterates that junior to him were promoted and workman was superseded. That as per cadre scheme, on completion of 3 years service in Grade C, he was due for promotion to the opost of Asstt. Foremen (Electrical) T&S Grade B. On such ground, workman submits that management be directed to promote him on post of Asstt. Foreman T&S Grade C w.e.f. 25-9-98 and difference of salary be paid to him. He has also submitted on 13-4-04 that he had retired from post of Electrician Grade B.

3. IInd party submitted Written Statement at Page 6/1 to 6/4. Claim of workman is opposed. Workman was working at Amadand Project as Electrician Cat-VI, Grade B SLU. The service condition of employees in coal mines are covered by settlement known as NCWA. The settlement provides cadre scheme. Cadre scheme No. VII is meant of Electrical Mechanical Discipline Employees who are circulated on 20-6-84. The promotional channel of various categories are provided in the scheme. The selection up to Cat-V is on basis of Seniority-cum-Merit and selection from above category V to VI is on merit-cum-seniority basis. The selection for supervisory Grade C post is on merit of the employees in Cat VI.

4. IInd party further submits that competency certificate from appropriate authority is condition precedent for promotion to the post of Grade C. workman was not possessing competency certificate therefore he was not recommended by DPC for promotion to Grade C post. The seniority is irrelevant for selection for post of Grade C. On such contentions, IInd party submits that promotion cannot be claimed as a matter of right. Promotion is given considering eligibility, recommendations of DPC, availability of sanctioned post. On above ground, it is submitted that reference be answered in its favour.

5. Ist party workman submitted rejoinder reiterating his contentions in statement of claim. Workman submits that he was fulfilling qualification for promotion to the post of Foreman Grade C. He denies that he was not considered by DPC as he did not possess requisite certificate.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the Chief General Manager, Jamuna & Kotma Area of SECL in not promoting

Shri Rambahadur Vishwakarma, Electrician SLU-B to the technical and supervisory Grade C w.e.f. 25-9-98 and Grade B from 2001 and also not making payment of difference is legal and justified?

- (ii) If not, what relief the workman is entitled to?" Workman is not entitled to any relief.

### REASONS

7. Though workman raised dispute claiming promotion to the post of Asst. Foreman electrical T&S Grade B and grade C from respective dates, he was superseded by his juniors, workman failed to adduce evidence to substantiate his claim. Evidence of workman was closed on 16-4-2013.

8. Management filed affidavit of witness Shri Priyabrata Mohanty Manager (P) supporting contentions of IInd party that as per cadre scheme, the selection of Supervisory Grade C is on merit. That workman was not possessing competency certificate as such he was not fulfilling required conditions for promotion to the post of Asstt. Foreman (T&S) Grade C. The evidence of management's witness remained unchallenged as workman failed to cross-examine the witness. Copy of cadre scheme is produced at Exhibit M-1. The illegality for promotion requires working of the employees in Cat-VI for 3 years. Workman was not selected by DPC therefore claim of workman for promotion cannot be established. For above reasons, I record Point No.1 in Affirmative.

9. In the result, award is passed as under:-

- (1) The action of the Chief General Manager, Jamuna & Kotma Area of SECL in not promoting Shri Rambahadur Vishwakarma, Electrician SLU-B to the technical and supervisory Grade C w.e.f. 25-9-98 and Grade B from 2001 and also not making payment of difference is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 फरवरी, 2015

**का.आ. 292.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 111/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/02/2015 को प्राप्त हुआ था।

[सं. एल-22012/143/2005-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 10th February, 2015

**S.O. 292.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 111/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 10/02/2015.

[No. L-22012/143/2005-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/111/2012**

Shri Daud Ali,  
S/o Noor Mohd.  
Newton/ Ganpati Mine of WCL,  
PO Parasia, Bhimsen,  
Distt. Chhindwara

...Workman

**Versus**

General Manager,  
Western Coalfields Limited,  
Pench Area, Post Parasia,  
Distt. Chhindwara

...Management

**AWARD**

Passed on this 13th day of January, 2015

1. As per letter dated 9-10-2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/143/2005-IR(CM-II). The dispute under reference relates to:

“ Whether the ID against correction of his date of birth raised by Shri Daud Ali S/o Shri nor Mohd. Ex Raj Mistry, Newton/Ganpati Mines of W.C.Ltd. PO Parasia, Bhimsen, Distt. Chhindwara (MP) is genuine and fair? To what relief the concerned workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman failed to submit statement of claim. Workman was proceeded ex-parte on 27-3-2014.

3. Management filed ex-parte Written Statement. Management submits that workman Daud Ali S/o Noor Ali was employee of Newton/ Ganpati Mine Pench Area. He was initially appointed in Newton Colliery. At the time of his initial appointment, his date of birth was recorded 5-5-40 in Form B of Newton Colliery. Workman has signed in token of acceptance of entries in Form B. In service book of workman, date of birth was recorded 5-5-40.

Workman had signed entries recorded in his service book. Workman had not raised dispute about his date of birth. Workman was retired attaining age of 60 years on 5-5-2000. Workman had filed Writ Petition No. 2449/2000 before Hon'ble High Court. The dispute was raised before ALC, Chhindwara for connection of his date of birth.

4. IInd party also filed affidavit of witness Shri Hirok Sarkar. Management's witness has stated that in form B Register, date of birth of workman was recorded 5-5-40. Same date of birth was recorded in his service book. Abstracts of service book were sent to workman. The date of birth was not objected. The evidence of management's witness remained unchallenged. The copies of entries in form B Register and service book are produced. Workman failed to file his statement of claim. He has failed to participate in reference proceeding. Therefore award is passed as under:-

- (1) The action of the Chief General Manager, Jamuna & Kotma Area of SECL in not promoting Shri Rambahadur Vishwakarma, Electrician SLU-B to the technical and supervisory Grade C w.e.f. 25-9-98 and Grade B from 2001 and also not making payment of difference is legal and justified.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 फरवरी, 2015

**का.आ. 293.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 158/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/02/2015 को प्राप्त हुआ था।

[सं. एल-22012/275/1994-आईआर (सी-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 10th February, 2015

**S.O. 293.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 158/1994) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 10/02/2015.

[No. L-22012/275/1994-IR(C-II)]

Md. ZAHID SHARIF, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/158/94**



General Secretary,  
MP Koyla Khadan Mazdoor  
Panchayat (HMS),  
PO Junnardeo,  
Distt.Chhindwara (MP)

...Workman/Union

### Versus

Manager,  
Tandsi Project,  
WCL, Kanhan Area,  
PO Rampur,  
Distt. Chhindwara (MP)

...Management

### AWARD

Passed on this 5th day of January, 2015

1. As per letter dated 12-9-94 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/275/94-IR(C-II). The dispute under reference relates to:

“Whether the action of the management of Tandsi Project of WCL, Kanhan Area PO Rampur, Distt. Chhindwara MP in dismissing Shri Parasram S/o Tularam, General Mazdoor Tandsi project of WCL, Kanhan Area from services w.e.f. 5-6-92 is justified? If not, to what relief the worker is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim through Union at Page 3/1. Case of Ist party workman is that he was appointed in place of his mother Ramrati Bai on 18-2-89. Management has ordered to reduce manpower of Khandwa Area. Ist Party workman Shri Parasram is one of the victim by dismissing his services. That workman was injured underground on 5-12-90. He was under treatment at Company's Hospital. He has become week. He was never absent for long period. Workman was called in Enquiry Proceedings. No charge sheet was given to him. he had attended Enquiry Proceedings. Secretary of Union demanded charge sheet. He was orally told that 2 years back he was absent for few days. He shown medical certificate of injury. Workman was working satisfactorily in 1992. Without any reasons, he was dismissed on 5-6-92. Without issuing charge sheet to workmen, enquiry was started. Within few hours, enquiry was closed. Workman was not provided opportunity for his defence. Workman demanded copy of Enquiry Proceedings dated 9-6-92. It was denied by management. As per management, charge sheet was issued on 26-3-91. Enquiry was completed on 8-6-91. While order of dismissal was issued after one year. The act of management is illegal. On such ground, workman is praying for reinstatement with full back wages.

3. IInd party submitted Written Statement at Page 4/1 to 4/4. IInd party reiterates that reference is not tenable. The dispute was not raised by employees representative

or management. workman was not member of HMS Union. Said Union has no locus standi to raise the dispute. In standing orders, appeal is provided under order of dismissal. Such appeal was not preferred by workman. That conciliation was not exercised for settling dispute therefore reference is not tenable. In 1990, workman was on duty for 99 days, in 1991, he was on duty for 49 days. The absence of workman amounts to misconduct. Charge sheet was issued to workman on 26-3-91. Charge sheet was sent by RPAD on is address. The charge sheet was also displayed on notice board. Charge sheet sent to workman was received back. Management appointed Enquiry Officer. Workman had not submitted explanation for his unauthorised absence. Workman claimed suffering from illness. Workman had assured to properly work in future. That hospital facilities are provided to the workers of Tandsi Project besides residential accommodation. Principles of natural justice were followed while conducting enquiry against workman. he was given opportunity for his defence. Workman failed to submit reasonable explanation for his absence. Enquiry Officer submitted his report holding workman guilty of the charges. Workman was dismissed on 5-6-92. Workman had submitted explanation of illness suffering underground injury but no document was submitted by workman or his representative. Workman remained absent from duty. He was habitual absentee. On such ground, IInd party prays that action of management is proper and legal.

4. Ist party Union filed rejoinder at Page 5 reiterating contentions in statement of claim. It is contented that workman submitted medical certificate about his illness. All adverse contentions of management are denied.

5. As per order dated 17-7-2013, enquiry conducted against workman is found proper and legal. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |  |
|--|--|
| (i) Whether the alleged misconduct is proved from evidence in Enquiry Proceedings? | In Affirmative                         |
| (ii) Whether punishment of dismissal imposed against workman is legal and proper?  | In Affirmative                         |
| (iii) If so, to what relief the workman is entitled to?”                           | Workman is not entitled to any relief. |

### REASONS

6. Enquiry conducted against workman is found proper and legal. Question arises whether charges of misconduct alleged against workman is proved from evidence in enquiry Proceedings. Charge sheet was issued to workman

for unauthorized absence alleging misconduct under Rule 17(1)(N) & 17(1)(B). Management's Representative submitted details of working days of workman at Page 8 of Enquiry proceedings. The explanation of workman was he was suffering from illness. However he failed to produce documents about his treatment. So far as documents Exhibit W-1 to W-11 produced by workman shows that the medicines were prescribed documents exhibit W-5 to W-9 are not legible. Exhibit W-10, W-11 are application submitted by workman. The findings of Enquiry Officer that workman has not produced satisfactory documents about his illness cannot be interfered as Documents W-1 to W-4 are not issued by any Doctor giving treatment to the workman. the documents donot pertain to treatment received by workman. For above reasons, I record my finding in Point No.1 in Affirmative.

7. **Point No.2-** workman has not adduced any evidence. Documents and evidence in Enquiry Proceedings shows workman was absent from duties for more than 10 days. He was absent from duty frequently therefore finding of Enquiry Officer cannot be said perverse. For above reasons, I record my finding in Point No.1 in Affirmative.

8. **Point No.3-** The charges against workman are proved from evidence in Enquiry Proceedings. Workman was absent from duty for more than 10 days. He was also habitual absent from duty therefore the punishment of dismissal imposed on workman cannot be interfered. Accordingly I record my finding on Point No.3.

9. In the result, award is passed as under:-

- (1) The action of the management of Tandsi Project of WCL, Kanhan Area PO Rampur, Distt. Chhindwara MP in dismissing Shri Parasram S/o Tularam, General Mazdoor Tandsi project of WCL, Kanhan Area from services w.e.f. 5-6-92 is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 फरवरी, 2015

**का.आ. 294.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एन.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 18/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/02/2015 को प्राप्त हुआ था।

[सं. एल-22012/213/1995-आईआर (सी-II)]

मो. जाहिर शरीफ, अनुभाग अधिकारी

New Delhi, the 10th February, 2015

**S.O. 294.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/1996)

of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Jhingurda Colliery of NCL and their workmen, received by the Central Government on 10/02/2015.

[No.L-22012/213/1995-IR(C-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/18/96

Shri Bedram S/o Shri Sahuram,  
Ex General Mazdoor, Cat-I, HB 398,  
Post Jhingurda Colliery,  
Distt.Sidhi (MP)

...Workman

Versus

General Manager,  
Jhingurda project of NCL,  
Post Jhingurda Colliery,  
Distt.Sidhi

...Management

#### AWARD

Passed on this 5th day of January, 2015

1. As per letter dated 1-1-1996 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/213/95-IR(C-II). The dispute under reference relates to:

“Whether the action of the General Manager, Jhingurda Project of NCL, Singrauli in dismissing shri Vedram, General Mazdoor, Cat-I from company services w.e.f. 30-4-94 is legal and justified? To what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of Ist party workman is that he was appointed as General Mazdoor Cat-I as son of Jhaduram. That workman was appointed on 18-9-90 as clerk as per Para 9.4/3 of standing orders. That he successfully completed probation period. He was also allowed benefits of promotions. That complaint was manipulated from his father under intoxication alleging that he was not son of Jhaduram as per order dated 30-1-93, he was suspended. Charge sheet was issued to workman. it is alleged that charge sheet was issued by incompetent authority is illegal. That enquiry was not properly conducted. He was not supplied documents. Enquiry Officer represented workman to change his co-worker. Shri G.P. Tiwari should be engaged as co-worker otherwise he will loose his service. Workman had submitted certificates having name of his father Jhaduram.

Affidavit of other witnesses were also submitted. That Shri Jhaduram was his father. At the time of his appointment, verification was made and it was confirmed that Shri Jhaduram was his father. Enquiry Officer observed in his report that workman was not giving money to Jhaduram and therefore he alleged that workman was not his son. The findings of Enquiry Officer are perverse and illegal. On such contentions, workman prays for his reinstatement with consequential benefits.

3. IInd party filed Written Statement at Page 7/1 to 7/5. The appointment of workman as General Mazdoor is not disputed. That NCWA-II came in force on 1-1-1979 providing employment to dependents of employees who have died or declared medically unfit for service. That Shri Jhaduram was working as General Mazdoor Cat-I. he was declared unfit for service. On application submitted by Shri Jhaduram, Ist party workman was declared as his son. Workman was provided employment as per order dated 16-8-90. Workman was asked to report for occasional training with Security Officer, Jhingurda colliery. He was working with management. Jhaduram complained to management that workman was not his son, he secured employment by fraud. After receiving said complaint, chargesheet was issued to workman. Reply to chargesheet was submitted by workman, it was found not satisfactory. Shri S.P. Singh was appointed Enquiry Officer, enquiry was conducted on various dates. Management's representative Shri G.P. Tripathi and co-worker of workman were present. Workman had denied charges against him. Jhaduram was examined as Management's witness. Other witnesses were examined. They were also cross-examined. It is disclosed in the evidence that Jhaduram had brother Manglu. Workman was son of Manglu. Jhadu had two wives. Jhaduram got one illegitimate child, he was not married to the lady. Considering the evidence, workman was dismissed from service.

4. As per order dated 26-11-09, preliminary issue was decided. Enquiry conducted against workman was found not proper and justified. enquiry was vitiated. Management was permitted to prove misconduct against workman.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |   |                     |
|---|---------------------|
| (i) Whether the action of the General Manager, Jhingurda Project of NCL, Singrauli in dismissing Shri Vedram, General Mazdoor, Cat-I from company services w.e.f. 30-4-94 is legal and justified? | In Negative         |
| (ii) If not, what relief the workman is entitled to?"   | As per final order. |

## REASONS

6. Enquiry conducted against workman is found vitiated therefore the evidence in Enquiry Proceedings cannot be considered. Management was permitted to prove misconduct alleged against workman. after the enquiry conducted against workman is found vitiated, management filed affidavit of witness Shri Prithvipal Singh. Management's witness in his affidavit says that Shri Jhaduram was working as General Mazdoor Cat-I. He was declared unfit. Jhaduram submitted application alongwith declaration for employment to Shri Vedram declaring that Vedram was his son. As per his declaration, workman was appointed as General Mazdoor on compassionate ground vide order dated 16-3-90. That Jhaduram thereafter complained to the management that Vedram was not his son. He obtained job by fraud therefore chargesheet was issued to workman. Enquiry Officer submitted his report holding workman guilty of charges. The workman was terminated on report of Enquiry Officer. That Shri Jhaduram himself had declared Vedram was son of his younger brother Manglu. Manglu had died. His wife was alive. Vedram got two brother. Jhaduram admitted Vedram was not his son. Workman refused Smt. Chaitabai is wife of Late Mangloo. She has stated Vedram was his son. His father died of TB. Management's witness has no personal knowledge about the relationship. Management's witness has narrated what was evidence tendered by parties in Enquiry Proceedings. As enquiry was found vitiated, the evidence in Enquiry Proceedings cannot be considered. Management's witness in his cross-examination says he was posted at Nighai Hqr during 1990 to 1992. His affidavit of evidence is based on available record. he had seen complaint of Jhaduram. Complaint is produced in Enquiry Proceedings. Jhaduram was working in Jhingurda project. He was declared medically unfit. Other witness had seen service details of Jhaduram name of workman was not appearing as dependents in his service record. Jhaduram had submitted application for providing employment to workman Shri Vedram. Management's witness admits that for employment on compassionate ground, office calls various information. After such information is submitted, employment on compassionate ground is to be allowed. That workman was given employment without conducting enquiry. Shri Jhaduram had submitted complaint alleging that Vedram was not his son. Said complaint was received on December 1992. At that time Jhaduram was alive. He has withdrawn his complaint. He stated that Vedram was son of Manglu and not his son. Jhaduram had not submitted any other application to provide employment on compassionate ground. The witness admits that during enquiry workman had produced certificates of residential proof, certificate issued by Gram Panchayat. All those documents are in Enquiry Proceedings Exhibit W-1 to W-4. It is denied that workman is dismissed from service by victimization.

7. Workman has filed affidavit of his evidence. He has stated that he was appointed on compassionate ground as son of Jhaduram. In certificates produced by him, Jhaduram is shown as his father. At the time of his appointment, police verification was made. It was confirmed that he was son of Jhaduram. Workman in his cross-examination says he was appointed after consent of Jhaduram. He denies he is not son of Jhaduram. His further evidence is devoted that signature of Jhaduram was on complaint obtained by other person he submitted reply to the chargesheet. Jhaduram had two brothers one of them was Mangloo. Mangloo died 15-17 years before. Jhaduram died 7 years back. Workman denies that he is son of Mangloo. Widow of Mangloo is alive. He denies that on understanding that workman will look after Jhaduram for his whole life Jhaduram had allowed his name as father of workman. Ist party workman further says that name of his mother is Chaitibai. He denies that she was wife of Mangloo. Workman reiterates that Chaitibai was wife of Jhaduram. When he was of six months, Jhaduram had driven him out of his house along with Chaitibai. Thereafter Mangloo married with her. No other witness was examined.

8. If evidence of management's witness is compared with evidence of workman, the management's witness has no personal knowledge. He has narrated what was evidence adduced in Enquiry Proceedings. Workman was admittedly appointed on compassionate ground as son of Jhaduram. Jhaduram himself had complained that workman was not his son. Management's witness in his cross-examination says Jhaduram had withdrawn his complaint therefore evidence of management's witness cannot establish charges against workman. For above reasons, the dismissal of workman on complaint of Jhaduram cannot be said illegal. Therefore I record my finding in Point No.1 in Negative.

9. **Point No.2-** Learned counsel for IInd party Shri A.K. Shashi submits that workman was issued chargesheet after complaint received from his father Jhaduram. Management was justified in issuing the chargesheet. Jhaduram himself had withdrawn his complaint. Under such circumstances, workman if reinstated, backwages may not be allowed. When charges are not proved against workman, but complaint was submitted by Jhaduram who was shown as his father at the time of his appointment on compassionate ground. In my considered view, workman cannot be blamed for dismissal from service therefore workman deserves to be reinstated with 50 % back wages. Accordingly I record my finding in Point No.2.

10. In the result, award is passed as under:-

- (1) The action of the General Manager, Jhingurda Project of NCL, Singrauli in dismissing Shri Vedram, General Mazdoor, Cat-I from company services w.e.f. 30-4-94 is not legal and justified.

- (2) IInd party is directed to reinstate workman Shri Vedram with continuity of service and 50 % back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 फरवरी, 2015

**का.आ. 295.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान एटॉमिक पावर स्टेशन, रावतभाटा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 2/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/02/2015 को प्राप्त हुआ था।

[सं. एल-42011/1/2008-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th February, 2015

**S.O. 295.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 2/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Rajasthan Atomic Power Station, Rawatbhata and their workmen, which was received by the Central Government on 05/02/2015.

[No. L-42011/1/2008-IR(DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

Presiding Officer : Bharat Pandey

**I.D. 2/2008**

Reference No.L-42011/1/2008-IR(DU)

dated: 13.3.2008

The General Secretary  
Parmanu Vidhyut Karamchari  
Union (CITU), Post Bhabhanagar,  
Via Kota, Rawatbhata (Kota)-323307.

V/s

The Site Director  
Rajasthan Atomic Power Station  
Unit 1 to 6, P.O.Rawatbhata via Kota  
(Rajasthan), Rawatbhata (Kota)-323303.

#### AWARD

Dated : 30.12.2014

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section 1 & 2(A) of



Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication :-

“ Whether the demand of the Rajasthan Anushakti Pariyojna Karmachari Sangh for grant of regular appointment to shri Nand Kishor Meena w.e.f. 31/7/93 by the management of site Director, RAPP Unit 3 & 4 is legal and justified? If yes, to what relief the workman is entitled to?”

2. Sh. Ramesh Gautam, Joint Secretary, Rajasthan Atomic Power Project Karamchhari Sangh (INTUC), Rawatbhata (Raj.) has filed this statement of claim on behalf of workman Sh. Nandkishore Meena, hereinafter known as applicant. According to statement of claim the brief fact of the case is that applicant is authorised to file statement of claim for & on behalf of The General Secretary, Parmanu Vidhyut Karmachari Union (CITU), Post Bhabhanagar, Via Kota, Rawatbhata (Kota)-323307. It has been further alleged that a dispute was raised by INTUC regarding irregularities in recruitment of Sh. Nandkishore Meena before the Assistant Labour Commissioner (Central), Kota but due to rigid attitude of the management conciliation could not be made. As a result of failure in conciliation proceeding the matter was referred by Assistant Labour Commissioner (Central), Kota to Government of India, Ministry of Labour, New Delhi whereupon reference was made for adjudication before the CGIT, Jaipur. Reference has been attached as Annex-1 to the statement of claim.

3. It has been alleged in para 1 & thereafter in succeeding paragraphs of the statement of claim that Sh. Nandkhsore Meena had received a call letter for interview to regular post & he was interviewed after examination of all the eligibilities to the post. Call letter for interview has attached as Annex-2 to statement of claim. It has been further alleged that Sh. Nandkishore Meena was medically examined by Medical Superintendent, Rajasthan Atomic Power Station Hospital, a medical examination, which is conducted only for regular recruitment. Medical examination report is Annex-3 to statement of claim. Sh. Nandkishore Meena was selected to the post of Helper-B(Rigger) in pay-scale 775-12-1025 but in appointment letter it was mentioned that he will be getting fixed pay of Rs.750/- p.m. & overtime @ Rs.3/- per hour. Appointment letter is Annex-4 to the statement of claim. It has been further alleged that tenure of Sh. Nandkishore Meena was extended in the slabs of six month to the extent of 20 month but he was not made permanent & was kept on consolidated pay on fixed term basis. Annex-5 is the order dated 28.1.94 of extension of his service for further period of 6 months. It has been alleged in para 5 of the statement of claim that Sh. Nandkishore Meena was allotted computer code 634/79 & was issued pay slips like other regular employee. Annex-6 is the pay bill of Sh. Nandkishore Meena for the month of March, 95 & September, 93. It has been further alleged that he appeared for trade test &

interview for regular appointment & as a result of test & interview he was given regular appointment as Assistant 'B' in the pay scale of Rs. 775-12-1025 on 7.3.95 & Annex-7 is the document connected with such test, interview & regular appointment. It has been alleged that appointment letters were issued to five candidates amongst those who appeared for interview along with Sh. Nandkishore Meena & four candidates alongwith Sh. Nandkishore Meena joined on 31.7.93 & remaining one candidate joined on 2.8.93 but management regularised four candidates on 1.1.95 leaving Sh. Nandkishore Meena. Sh. Nandkishore Meena was sent to participate in All India Atomic Energy departmental game competition & he was regularised on 7.3.95 after his return from participation in sports. In above circumstances, Sh. Nandkishore Meena was promoted only in May, 2004 & he was left behind six month in comparison to others. It has been alleged that Sh. Nandkishore Meena was sent for participation in sports as departmental candidate & was issued certificate of participation in alleged sports activities & was given regular allowances as regular employee. Annex-8 is the various certificates obtained by Sh. Nandkishore Meena during sports activity. It has been further alleged that there has been deduction @ Rs.5/- p.m. from the pay of Sh. Nandkishore Meena as contribution to CHSS scheme which deduction is made only from the employee getting regular pay scale. In the call letter of Sh. Nandkishore Meena it has not been shown that call letter was issued for daily rated, trainee or for fixed term basis but conditions not mentioned in the call letter were thrust upon the workman Sh. Nandkishore Meena which are entirely different conditions than those issued in interview letter. Annex-9 is the concerned correspondence for appearance of the applicant for medical & physical fitness.

4. According to the contention of the applicant in para 12 of the statement of claim Sh. Nandkishore Meena was given two promotions namely Karyadakchh 'A' w.e.f. 1st May, 2001 & from Karyadakchh 'A' to Karyadakchh 'B' w.e.f. 1st May, 2005. According to contention of the applicant ACR of Sh. Nandkishore Meena was similar to other employees but he suffered the loss for a period of six month. Promotion orders are Annex-10 to statement of claim. According to para 13 of statement of claim further documents and information will be submitted by applicant with rejoinder & argument to help the tribunal & to secure the justice from the tribunal. Finally it has been prayed that Sh. Nandkishore Meena should be treated regular employee w.e.f. 31.7.93 as helper 'B' (Reeger) & thereafter he should be given promotion of Karyadakchh 'A' w.e.f. 1.5.99 & Karyadakchh 'B' w.e.f. 1.5.2003 with respective scale of pay 3050-75-3950-80-4590 & 3200-85-4900 & all consequential benefits attached therewith.

5. Notices were issued to the parties on 19.1.2009. Statement of claim was filed on 29.11.2010 & same day copy of statement of claim was given to opposite party for

filing reply on 20.1.11. On 20.1.11 opposite party did not file reply hence, case proceeded ex-parte against opposite party & 21.2.11 was fixed for filing documentary evidence by applicant. On 21.2.11 no evidence documentary or otherwise was filed by applicant & time was sought for filing document & evidence on 28.4.11, the next date. On 28.4.11 none appeared from both the side hence 26.5.11 was date fixed for further order. On 26.5.11 information was given by learned representative of the applicant that information has been received about death of workman Sh. Nandkishore Meena which is required to be confirmed. Finding the fact that claim was filed through Union therefore, the then learned presiding officer fixed next date 27.6.11 for evidence of the applicant. Opposite party continuously remained absent since 20.1.11. On 27.6.11 both the parties were present. Learned representative of the applicant sought adjournment to file authority & application for substitution on behalf of legal representative of the deceased workman Sh. Nandkishore Meena. Next date 16.8.11 was fixed for filing authority & application. On 16.8.11 both the parties were present & adjournment was granted in favour of applicant to file authority & application for substitution on 1.11.11. On 1.11.11 both the parties were present & again adjournment was granted in favour of applicant to file authority & application for substitution on next date 16.1.12. On 16.1.12 both the parties were absent hence 2.4.12 was next date fixed by the tribunal on its own motion for filing authority & application for substitution.

6. On 2.4.12 Learned representative of the applicant was present & none was present for & on behalf of opposite party. It was alleged by Learned representative of the applicant that he had filed authority on behalf of deceased workman Sh. Nandkishore Meena who is dead but statement of claim was filed by General Secretary (CITU) hence, time should be granted to file authority on behalf of concerned union. The then learned Presiding Officer granted time for filing authority on behalf of union on 9.5.12 with observation that union is the party in reference order hence, authority of the union is necessary to be brought on record. On 9.5.12 authority on behalf of union was not filed from applicant side & it was alleged by learned representative of the applicant that on next date authority will be filed & 24.7.12 was next date fixed. On 24.7.12 applicant side was absent & opposite party was present hence, 16.10.12 was next date fixed for filing authority from applicant side. On 16.10.12 both the parties were present but authority was not filed. On next dates 7.1.13 & 2.4.13 both the parties were present but authority on behalf of applicant was not filed from the applicant side. On next date 6.6.13 both the parties were present & it was observed by the then learned presiding officer that reply to the statement of claim had not been filed hence, 30.8.13 was fixed for filing reply to the statement of claim & authority from the applicant side on behalf of applicant. On 30.8.13 both the parties were absent & on subsequent

dates 11.11.13 both the parties were present but authority of the union & reply of the opposite party was not filed & next date 9.1.14 was fixed for the same. On 9.1.14 both the parties were present & case was adjourned fixing 1.1.14 with last opportunity for filing authority & reply to the statement of claim. On 1.4.14 none appeared for both the sides. Sh. P.V.Sharma (Retd.) who was previous Secretary of the union was present who was provided time for filing information about LRs of the deceased applicant Sh. Nandkishore Meena. Again last opportunity was given for providing information about LRs of the deceased till next date 1.5.14. On 1.5.14 none appeared from both the side & no step was taken in light of order dated 1.4.14 hence, case was fixed for further order on 3.6.14. After passing the order Learned representative of the opposite party appeared & took notice of the next date fixed for 3.6.14. On 3.6.14 applicant side was absent & opposite party was present & on next date 7.7.14 both the parties were absent & no step was taken from opposite party to file reply to statement of claim. Applicant side also failed to file authority on behalf of union or on behalf of LRs with application for substitution. On 7.7.14 next date 21.7.14 was fixed & tribunal adjourned the proceeding on its own motion. On 21.7.14 also both the parties were absent & there was advocate strike on 21.7.14 hence, 25.8.14 was next date fixed for filing information about LRs of the deceased workman mentioning that last opportunity for taking step was provided on 1.4.14. On 25.8.14 also both the parties were absent & learned counsel were on strike hence 11.11.14 was next date fixed for same above proceeding. On 11.11.14 also both the parties were absent & proceeding was adjourned by the tribunal on its own motion fixing 19.11.14 for further order. After order learned representative of the opposite party appeared who was informed about the next fixed date 19.11.14. On 19.11.14 none appeared on behalf of applicant. Learned representative of the opposite party was present hence once more case was adjourned in the interest of justice by tribunal on its own motion providing once more last opportunity for taking step for substitution till 27.11.14. No reply to the statement of claim was filed till 19.11.14 from the opposite side. On 27.11.14 none appeared on behalf of applicant. Learned representative of the opposite party was present. Case was again adjourned by tribunal on 27.11.14 & once more last opportunity was given to the applicant side for taking step for substitution till next date 9.12.14.

7. On 9.12.14 also none appeared on behalf of applicant. Learned representative of the opposite party was present. It has been observed in the order dated 9.12.14 that according to order-sheet of 26.5.11 information about death of Sh. Nandkishore Meena is on record but no step has been taken for substitution despite numerous opportunity given to applicant. Finding that statement of claim has

been filed by the union hence, it was felt just, legal & proper by the tribunal that a notice should be sent to General Secretary of the Union that why the proceeding in the case be not stopped as no step for substitution is being taken from the applicant side & no representative or an advocate for that purpose is appearing from the applicant side & next date 23.12.14 was fixed for answering the notice. Notice sent to the General Secretary is available on the record which has been served upon the notice. Stamp of the post office dated 15.12.14 is on acknowledgement to the notice which is available on the record of the file. On 23.12.14 again none appeared from both the side. In above circumstances, further proceeding in the case was closed & case was reserved for award as notice sent to applicant did not serve any purpose to initiate the applicant to take steps to lead the case to a logical conclusion.

8. From above fact & circumstances, it is evident that no step has been taken from the applicant side for substitution proceedings although information about death of the applicant is available on record since, 26.5.11. The then learned presiding officer fixed 27.6.11 for ex-parte evidence as case was proceeding ex-parte but no evidence was adduced from the applicant side. Finding the fact that statement of claim has been filed by the union & not by Sh. Nandkishore Meena it was ordered by the then learned presiding officer to file authority on behalf of union but till date no such authority has been filed. Thus, it shall appear that despite notice to the General Secretary no step has been taken by the applicant to proceed with the reference either in the matter of substitution proceeding or in the matter of adducing evidence relating to statement of claim. From above fact & circumstances, it is clear that despite reminder the applicant is not appearing & adducing any evidence with respect to reference under adjudication. Hence, there is inability to record the finding on reference due to no evidence. In above circumstance the statement of claim is fit to be dismissed for want of evidence.

9. The reference is answered accordingly.

10. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 296.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 9/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-12011/14/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th February, 2015

**S.O. 296.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 9/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 13/02/2015.

[No. L-12011/14/2013-IR(B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT, CHENNAI

Monday, the 12th January, 2015

**Present :** K.P. PRASANNA KUMARI,  
Presiding Officer

#### Industrial Dispute No. 9/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their workman)

#### Between :

1. Smt. Banumathi : 1st Party/1st  
Petitioner
2. The Dy. General Secretary : 1st Party/2nd  
Indian Bank Employees Petitioner Union  
Union, 6, Moore Street,  
Mannady Corner  
Chennai-600001

#### AND

The Zonal Manager : 2nd Party/  
Indian Bank Zonal Office Respondent  
46-51, Katpadi Road, Vellore  
Tamil Nadu-632004

#### Appearance:

For the 1st Party/1st : M/s. J. Thomas Jeyaprabakaran,  
& 2nd Petitioner Authorized Representative  
For the 2nd Party/ : M/s. Aiyar & Dolia, Advocates  
Respondent

#### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/14/2013-IR(B-II) dated 12.02.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Management of Indian Bank in imposing the penalty of Compulsory Retirement and denying pension to Smt. Banumathi, Clerk/Shroff of Devanampattu Branch after fulfilling the requirement as per Bipartite Industry Level Settlement is legal and justified? What relief the concerned workman is entitled to?

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 9/2014 and issued notice to both sides. The petitioner has appeared through Authorized Representative and the Respondent through the counsel and filed claim and counter statement respectively.

3. The averments in the Claim Statement filed by the petitioners in brief are these:

The First Petitioner had joined the services of the Respondent Bank at Thiruvannamalai Branch. Subsequently she was transferred to Devanampattu Branch. While at this branch, the First Petitioner was served a charge sheet dated 11.09.2009. The first four charges in the charge sheet were in respect of three payments made by the petitioner in the SB Account of one Jeeva. It was stated in the charge sheet that the payments were made against withdrawal slips while the account was cheque operated and without obtaining permission from the higher authorities, that the First Petitioner had failed to verify the signatures in the instruments, that the transactions turned out to be fraudulent and the Bank had been facing financial loss because of these. The fifth charge is that on 03.12.2008 one Subramaniam had remitted Rs. 300/- in his newly opened SB Account alongwith SB Pay-in-Slip duly filled and signed and the First Petitioner had received the cash from the customer and had affixed cash received stamp in the pay-in-slip and initialed the same for having received the same but did not account the same in the bank's book of account and she accounted it only on 05.12.2008 and had thus temporarily misappropriated the amount. The charge sheet was preceded by a Show Cause Notice and the petitioner had given reply to the Show Cause Notice. The staffs across the counter are having the responsibility of completing the transactions as quickly as possible. The rural folk are normally trustworthy and do not indulge in fraudulent activities. When known faces tender instruments across the counter the staff at times bypass time consuming procedures in good faith. The person who had obtained payments from the account of Jeeva is a close associate of the account holder. The amount involved was very meager. Whether the account is a cheque operated one or otherwise could be ascertained only if the cheque details issued to the customer are fed into the system. The details of some of the accounts are not fed in the system. Regarding non-accounting of the challan for Rs. 300/- on 05.12.2008, the petitioner did not arrive at any

excess on that date. When the Manager pointed out her initial on the challan the petitioner had remitted the amount of Rs. 300/- in the newly opened account, accepting her moral responsibility. When the account holder knew about the payment he had handed over Rs. 300/- for the First Petitioner. After issuing of the charge sheet an enquiry was held and the petitioner was found guilty of the charges. The punishment of Compulsory Retirement from service was imposed on the petitioner. The First Petitioner had not committed the offences alleged. There is no justification for the punishment imposed on her. The First Petitioner was denied pension also without any justification. The First Petitioner was in service of the Bank on 27.04.2010, the date on which another option to join the Pension Scheme was given. As requested by her, the amount equivalent to 2.8 times of the revised pay for November, 2007 was recovered and remitted to the Head Office as provided in the settlement. The First Petitioner had thus fulfilled all the requirements for getting pension. The First Petitioner is entitled to have pension. An order may be passed holding that the Respondent had acted illegally in imposing the punishment of compulsory retirement and denying pension option to the First Petitioner and directing the Respondent to reinstate the First Petitioner with continuity of service, back wages and all other attendant benefits including the right of exercising option for pension and to award costs.

4. The Respondent has filed Counter Statement contending as follows:

The First Petitioner was working as Single Window Operator (SWO) and was required to follow the system introduced in the Bank as per the banking procedure. The Clerks sitting in the counters as SWO were required to make payment only after debiting and after due verification of the signature of the account holder with the specimen signature available in the system, upto a specified amount. Alternately she can refer the instrument to the Officers. The First Petitioner ought to have referred the issue to the concerned Officer for getting authorization before making the payment. She has not obtained the authorization. The entire transaction was found to be fraudulent as the signature in the withdrawal slips did not match with the signature available in the bank records. The issue came to light only when the account holder made complaint of unauthorized debits in his account. Thus the First Petitioner had been negligent in making payments against withdrawal slips with forged signatures, bringing disrepute to the bank. Contrary to the system in practice the First Petitioner had received cash alongwith challan for opening a new Savings Bank Account from one of the customers and released the challan duly stamped and signed by her. But she failed to enter the amount in the system and the account showed zero balance. On verification it was found that the First Petitioner had received the cash but failed to enter in the system resulting in excess cash but she did not make



a report of it also. The First Petitioner was having excess cash unaccounted in her possession. She had remitted the same only on enquiry by the Branch Manager. This amounts to temporary misappropriation by the First Petitioner. Enquiry was conducted against the First petitioner and the Enquiry Officer had submitted report holding that all the charges are proved. The Disciplinary Authority had issued Show Cause Notice and on receipt of reply from the First Petitioner had imposed punishment of Compulsory Retirement on her. The punishment awarded to the First Petitioner is commensurate to the misconduct committed and is justified in the eye of law. The order of punishment was confirmed by the Appellate Authority in the appeal filed by the First Petitioner. The employees who were compulsorily retired from service by way of punishment are not eligible to avail option to join the Pension Scheme as per the provisions of the Pension Settlement. Having consciously agreed to the terms and conditions of the Pension Settlement the Second Petitioner Union who is a signatory to the same cannot seek to reopen the terms of the Settlement. Denial of pension was based on the existing service regulations. The petitioners are not entitled to any relief.

5. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W33 and Ext.M1 to Ext.M3.

6. The points for consideration are :

- (i) Whether the action of the management in imposing the penalty of compulsory retirement on the First Petitioner is legal and justified?
- (ii) Whether there is any justification in denial of pension to the First Petitioner?
- (iii) What, if any are the reliefs to which the petitioners are entitled?

#### **Point No. 1**

7. The First Petitioner was given appointment as Clerk in the Respondent Bank on compassionate grounds. The incidents leading to the punishment of Compulsory Retirement from service occurred while she was working in the Devanampattu Branch of the Bank. She had made three payments out of SB Account No. 588427181 in the name of one Jeeva, Rs. 1300/- on 04.10.2008, Rs. 7,000/- on 13.10.2008 and Rs. 300/- on 18.10.2008, all on the basis of withdrawal slips. The account holder gave a complaint to the Bank regarding unauthorized debiting from his account. On investigation it was noticed that even though the account of Jeeva was a cheque operated one, payments were made from the account on the basis of withdrawal slips. It was also noticed that the signature of the account holder in the specimen card and the signatures in the withdrawal slips were totally different. The first four charges against the First Petitioner are in respect these payments. On 03.12.2008 the First Petitioner had received

Rs. 300/- from one Subramani for opening a new SB Account and had issued receipt but she had not credited it to the account nor had she reported any excess amount at the time of the closure. Only when the Manager enquired about the same on 05.12.2008 she had remitted the amount in the newly opened account. The fifth charge is regarding this.

8. In fact the First Petitioner has not disputed the veracity of any of the charges leveled against her. Ext.W2 is the reply given by her to Ext.W1 memo calling for explanation. In Ext.W1 only the payments from the account of Jeeva are referred to. In Ext.W2 reply, rather than denying the acts alleged against her, she has tried to justify. She has stated in her reply that those in the rural area are innocent and do not indulge in unethical act and because of work pressure, certain formalities are skipped in good faith when known faces appear at the counter. She has further stated that the person who came to withdraw amount from the account of Jeeva was his relative and had accompanied him on earlier occasions and thus he was a known person. She has further stated that the amounts withdrawn were meagre only. Another memo is seen issued to her on 13.12.2008 regarding the incident of not crediting amount remitted by Subramani and this was marked as Ext.W3. Ext.W4 is the reply given by her. In this she has stated that Subramani had opened the account on 03.12.2008 and she had released the challan and counterfoil duly affixing the stamp. However, according to her, she had not noticed any excess on the day. Only on 05.12.2008 when the Branch Manager enquired and showed the voucher she had realized that something had gone wrong and had remitted the amount taking moral responsibility. She had further stated that in fact the party had not handed over the amount to her and so he had given the amount to her colleague who had enquired with him about the incident. Ex.W6 is the reply given by the First Petitioner in answer to the Charge Sheet. In this she had specifically admitted that she had effected payment from the account of Jeeva without verifying the signatures on the withdrawal slips since the presenter had been a person known to her. Regarding non-accounting of Rs. 300/- to the account of Subramani also she had repeated her earlier explanation.

9. In the enquiry proceedings the Management had examined the then Manager of the Devanampattu Branch. On the side of the First Petitioner, Subramani was examined. The Manager had given evidence regarding the incidents. The report given on the complaint received from Jeeva was proved through this witness. Another report regarding remittance of cash by Subramani for his newly opened account was also proved through him. He has stated that the account of Jeeva is a cheque operated account. He has deposed that the First Petitioner made payment through withdrawal slips without any permission and he had no knowledge of those payments until complaint was made by Jeeva. Regarding the failure to credit amount in

the account of Subramani he has stated that on verification on 04.04.2008 he had found that a cash challan dated 03.12.2008 for Rs. 300/- from Subramani was available but the related cash was not accounted in the books of the bank. When he enquired with the First petitioner on 05.12.2008 she had told him that she was having excess amount but she did not inform him as it would have delayed her departure from the branch. Then she had prepared a credit challan for Rs. 300/- and had remitted the amount.

10. It is very much clear from the evidence as well as her admission that the First Petitioner had been making payment through withdrawal slips even if the account was a cheque operated one. The argument that had been advanced on behalf of the First petitioner is that the fact that it is a cheque operated account was not fed in the system and so it would not have been possible for her to know that it is a cheque operated account. There is no merit in this argument. If it is not fed in the system it was imperative for the First petitioner to send it to the concerned Officer for his approval. She has not even cared to compare the signature in the withdrawal slips with the specimen signature of the account holder. She has stated in her reply that she did not make the verification since the person who approached her was one known to her and had been accompanying the account holder on some earlier occasions. Her another justification is that she expected that the rural folk being innocent would not resort to any malpractice. I do not think these are justifications that should come from an employee who is holding a very responsible post in a banking institution. She was holding the position of a Single Window Operator and she had the power and the responsibility to deal with all matters that came to her including receipt of the amount and payment of amount upto a particular limit single-handedly without referring to her superior Officers. She has not handled this position with the seriousness it deserves. One could not handle an office under assumptions and beliefs. She was bound to verify the signatures in the withdrawal slips. If she has not done it she must have been doing it in other cases also. A person of such irresponsibility is certainly not suitable to sit in the position in which she was.

11. Regarding the non-crediting of the amount of Rs. 300/- to the account of Subramani also, the First Petitioner has acted in an irresponsible manner. If what the Bank Manager has deposed is taken into account she wanted to leave the Bank at a particular time and avoid crediting the amount or reporting excess to the Manager only to avoid the delay in leaving the Bank. All the arguments advanced on behalf of the First Petitioner that the Bank was situated in a remote area and sufficient transport facility were not available are not those which would help the First Petitioner in any way. By giving her employment on compassionate grounds the Bank has placed great confidence in her and has put great responsibility also upon her. She was to rise to the occasion

to meet the expectations of the Bank. The excuses advanced on behalf of the First Petitioner would not entitle her to flout the procedure. Of course, Subramani had given evidence on behalf of the First Petitioner that he had not given money to the First Petitioner when he opened the account. This is of no help. Even if this case is accepted, the irresponsibility of the First Petitioner is once more exhibited by this. It means she had issued receipt with the seal "Cash Received" without actually receiving payment. But this does not seem to be the case as seen from the evidence of the Bank Manager. The Enquiry Officer had every justification in finding the charges proved.

12. The Disciplinary Authority also had acted properly by granting the punishment of Compulsory Retirement from service. The punishment is only commensurate with the nature of offences. The point is answered against the petitioners.

#### **Point No. 2**

13. On 27.04.2010 a Memorandum of Settlement has been entered into between the Indian Banks' Association on behalf of the Management including that of the Respondent Bank and the workman represented by All India Bank employees Association, etc. regarding Pension Scheme. As per Clause-1 of the terms of settlement all workmen employees in the service of the Bank as on the date of the settlement who exercise option to join the pension scheme in terms of the settlement will contribute from their arrears on account of wage revision in terms of the settlement an amount of Rs. 878 crores towards their share of the pension fund. For individual workmen employees the amount was worked out at 2.8 times of the revised pay for the month of November, 2007. Ex.W26 circular was issued by the Respondent Bank regarding the additional option to join the pension scheme under the Indian Bank (Employees) Pension Regulations. Clause-1 of the terms of settlement dated 27.04.2010 is repeated in this and it is stated that the offer to join the Pension Scheme opens on 23.08.2010 and closes on 21.10.2010.

14. According to the First Petitioner she has exercised her option to join the Pension Scheme as stated in Ext.W26. She has also paid the amount of 2.8 times of her revised pay for the month of November, 2007 towards the Pension Fund. Considering this option given by the First Petitioner the Respondent gave Ext.W29 reply rejecting her claim for pension. It is stated in this that as per the terms of the pension settlement dated 27.04.2010 compulsorily retired employees are not eligible to exercise option for pension. So her option was rejected.

15. The argument that is advanced on behalf of the First Petitioner is that the settlement dated 27.04.2010 does not differentiate between the compulsorily retired employees and other employees. On the other hand all those who were in service as on 27.04.2010, the date of the settlement were entitled to exercise the option. It does not matter

whether the option was exercised subsequently, even after the employee has ceased to be in employment of bank provided he/she was in service as on the date of settlement.

16. In fact it could be seen from the terms of settlement dated 27.04.2010 and also the circular marked as Ext.W26 that there is no provision that option to be exercised only if one continues to be in service at the time of the exercise of the option. The only criterion is that the person should have been service as on 27.04.2010. In fact, from Clause-2 of the settlement it could be seen that option for joining the Pension Scheme was extended even to a section of retired employees. The First Petitioner has stated during her examination that she has exercised her option to join the pension scheme only after she ceased to be in employment as she was compulsorily retired from service by order of the Disciplinary Authority on 08.09.2010. However, it is clear from Ex.W29 that the option was received by the Head Office on 27.09.2010 well before the closure of the date to exercise the option. Thus it could be seen that the First Petitioner has exercised her option and contributed towards the Pension Fund also as prescribed. The amount contributed by her has been returned to her as seen from Ext.W26, while declining her option.

17. The only reason for declining the option was that the First Petitioner was compulsorily retired from service and so she would not be entitled to pension and therefore she is not eligible to exercise the option. When the provisions in the pension regulations are taken into account it could be seen that this stand of the Respondent is not a proper one. Even on going through the provisions regarding disciplinary action this is clear. Even though the punishment imposed on the First Petitioner is "Compulsory Retirement from Service", this is to be construed as "Compulsory Retirement with Superannuation Benefits". This is because the punishment provided as per the procedure for disciplinary action is only compulsory retirement with superannuation benefits and not mere compulsory retirement. Clause-6(C) of the Disciplinary Procedure provides the punishment of Compulsory Retirement with Superannuation Benefits i.e. Pension and/or Provident Fund and Gratuity as would be due otherwise under the rules or regulations prevailing at the relevant time and without disqualification from future employment. That means if a person is to become eligible for pension on compulsory retirement, he must have exercised his option for pension. Otherwise only Provident Fund and Gratuity would have been payable.

18. It is also clear from Clause-6(c) that the entitlement of pension on compulsory retirement would be only as per the rules and regulations prevailing at the relevant time. Merely because an option is exercised one would not become eligible for pension. If only pension is provided one would become eligible. The reason given by the Respondent to decline the option given by the First

Petitioner is that a person on whom the punishment of compulsory retirement was awarded is not eligible for pension. However, on going through the Pension Regulations, it could be seen that this is not the case. The Regulations refers to various clauses of pension, superannuation pension, pension on voluntary retirement, invalid pension, compassionate allowance, premature retirement pension and also compulsory retirement pension, apart from these. Regulation-31 of the pension regulations providing for compassionate allowances states that when an employee who is dismissed or removed or terminated from service shall forfeit his pension. Conspicuously an employee who is compulsorily retired from service is not included in this. For those who are dismissed, removed or terminated from service compassionate allowance is to be provided, though it is the discretion of the employer. Regulation-33 providing for compulsory retirement pension states that an employee compulsorily retired from service may be granted pension by the authority higher than the authority competent to impose such penalty at a rate not less than two-thirds and not more than full pension admissible to him on the date of his compulsory retirement. From this also it is clear that unless option is exercised by the employee he would not be entitled to claim pension as provided under Regulation-33.

19. There is no allegation of misappropriation against the First Petitioner. Her only fault is that she was extremely careless, negligent and irresponsible. This will not tantamount to misappropriation which is a far serious offence. The First Petitioner was given employment on compassionate grounds on the death of her husband. The Bank is expected to show the same compassion to her in the matter of pension also though she was made to retire from service on account of her irresponsibility. The Bank is to accept the option exercised by the First Petitioner and consider her eligibility for pension under Regulation-33 of the Pension Regulations. The point is found accordingly.

### Point No. 3

20. In view of my finding on Point No. 2, the Respondent is directed to accept the option for pension exercised by the First petitioner and consider her eligibility for pension.

An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

### Witnesses Examined

For the 1st Party/ : WW1, Ms. N. Banumathi  
1st Petitioner

For the 1st Party/ : None  
2nd Petitioner Union

For the 2nd Party/ : MW1, Sri R. Shanmughanathan  
Management

**Documents Marked****On the Petitioner's side**

Ex.No.	Date	Description
Ex.W1	20.11.2008	Memo issued to Banumathi calling for explanation
Ex.W2	10.12.2008	Reply by Banumathi
Ex.W3	13.12.2008	Memo issued to Banumathi seeking explanation
Ex.W4	02.01.2009	Reply by Banumathi
Ex.W5	02.04.2009	Show Cause issued to Banumathi
Ex.W6	13.04.2009	Reply submitted by Banumathi
Ex.W7	11.09.2009	Charge Sheet issued to Banumathi
Ex.W8	22.10.2009	Proceedings of the Preliminary Enquiry
Ex.W9	12.01.2010	Proceedings of regular enquiry
Ex.W10	11.09.2009	Letter by Disciplinary Authority appointing the Presenting Officer
Ex.W11	22.10.2009	Letter from Banumathi authorizing the Defence Representative
Ex.W12	02.01.2009	Reply by Banumathi
Ex.W13	17.11.2008	Letter from the Devanampattu Branch to the Circle Head with Enclosures
Ex.W14	05.02.2008	Letter from the Branch to the Circle Office with Enclosures
Ex.W15	10.12.2008	Letter from the Branch to the Circle Office with enclosures
Ex.W16	09.12.2008	Letter from A. Subramani, Customer
Ex.W17	07.02.2010	Letter from the Presenting Officer enclosing his summing Up
Ex.W18	07.02.2010	Defence Summing up
Ex.W19	07.06.2010	Letter from the Disciplinary Authority enclosing the findings of the Enquiry Officer dated 03.06.2010
Ex.W20	25.06.2010	Banumathi's comments on the findings of the Enquiry Officer
Ex.W21	13.08.2010	Second Show Cause issued by the Disciplinary Authority proposing the punishment of Compulsory Retirement
Ex.W22	28.08.2010	Reply by Bhanumathi

Ex.W23	08.09.2010	Final order from the Disciplinary Authority imposing the punishment of Compulsory Retirement
Ex.W24	22.10.2010	Appeal submitted by Bhanumathi before the Appellate Authority
Ex.W25	25.06.2011	Letter from the Chief Manager, HRM enclosing the orders of the Appellate Authority
Ex.W26	21.08.2010	Circular by HO:HRM Department on another option to join the Pension Scheme
Ex.W27	-	Option form to be filled in by the employees who are in the service of the Bank – Annexure-I
Ex.W28	15.06.2011	Letter from Banumathi to the Executive Director requesting for pension on CRS
Ex.W29	06.06.2011	Letter from HO:HRM Department declining her option for pension
Ex.W30	19.08.2011	Petition under Sec.2 A by Banumathi before the Asstt. Labour Commissioner, Chennai
Ex.W31	29.05.2012	Representation from Banumathi before the Asstt. Labour Commissioner, Chennai on denial of pension
Ex.W32	24.08.2012	Reply filed by the Management before the Asstt. Labour Commissioner, Chennai
Ex.W33	10.09.2012	Rejoinder submitted by the Petitioner Banumathi

**On the Management's side**

Ex.No.	Date	Description
Ex.M1	13.07.2010	Letter from Respondent to Indian Bank's Association (IBA) seeking clarification on pension option under IX Bipartite Settlement
Ex.M2	20.07.2010	Reply received from IBA
Ex.M3	13.05.2010	IXth Bipartite Settlement – Payment of arrears to Award Staff.

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 297.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कारपोरेशन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम



न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 32/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[ सं. एल-12012/36/2010-आईआर (बी-II) ]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th February, 2015

**S.O. 297.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Corporation Bank and their workmen, received by the Central Government on 13/02/2015.

[No. L-12012/36/2010-IR(B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 27th November, 2014

**Present** : K.P. PRASANNA KUMARI,  
Presiding Officer

#### Industrial Dispute No. 32/2010

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Corporation Bank and their workman)

#### BETWEEN

Sri V. Swaminathan : 1st Party/Petitioner

#### AND

The Chairman & : 2nd Party/Respondent  
Managing Director  
Corporation Bank  
PB No. 88, Mangaladevi  
Temple Road Pandeewaram  
Mangalore  
Karnataka

#### Appearance :

For the 1st Party/ : M/s R. Karthikeyan,  
Petitioner Advocates

For the 2nd Party/ : M/s T.S. Gopalan & Co.,  
Respondent Advocates

#### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/36/2010-IR (B.II)

dated 15/19.07.2010 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is :

“Whether the action of the Corporation Bank in discharge of service of the petitioner, Sri V. Swaminathan on 26.05.2009 is justified or not? If not, to what relief the workman is entitled?”

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID 32/2010 and issued notice to both sides. Both parties entered appearance through their counsel and filed their Claim and Counter Statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner had joined the service of the Respondent Bank as Sub-Staff on 25.05.1998. He was promoted as Clerk-cum-Cashier and was transferred to Peruntholuvu and then to Dindigul. While working at Dindigul the petitioner was served with an order of suspension dated 22.11.2007 for reported cash shortage on 12.11.2007. An investigation was ordered and the Investigating Officer submitted a report. Thereafter a domestic enquiry was ordered against the petitioner on three charges leveled against him. It was alleged in the charge sheet that on 12.11.2007 while he was working as Cashier at Dindigul branch of the Respondent, a cash shortage of Rs. 9,983/- had occurred, that since the petitioner failed to reimburse the amount on the day, the amount was debited to sundry debtors account in his name and the cash was closed and the amount was reimbursed by him on the next day. It is also alleged that on 15.06.2007 while working at the same branch as Cashier, one Vijayalakshmi, a SB Account holder had remitted Rs. 30,000/- in cash to the credit of her account, that the petitioner had received the amount and issued counterfoil after affixing stamp with his initial but he had not credited the amount to the account, and on 22.06.2007 when the account holder complained to the Branch Manager about the non-crediting of the amount the petitioner had remitted the amount. It was further alleged that the petitioner had temporarily misappropriated the amount of Rs. 30,000/-. A domestic enquiry was conducted and a report was submitted by the Enquiry Officer. The Enquiry Officer had held that the first two charges against the petitioner are proved. However, the petitioner was exonerated of the third charge of Rs. 30,000/- The Disciplinary Authority took a different view in his proceedings and found the petitioner guilty of misappropriation of Rs. 30,000/- and proposed punishment of discharge from service with superannuation benefits and without disqualification of future employment. Though the petitioner was afforded with a personal hearing the proposed punishment was confirmed and the petitioner was discharged from the service of the bank on 05.01.2010. The appeal preferred by

the petitioner against the said order was rejected and the order of discharge was confirmed. The petitioner had raised the dispute accordingly. The conciliation proceedings before the Asstt. Commissioner of Labour had ended in failure and the matter had been referred to this Tribunal for adjudication. The order imposing the penalty of discharge from service on the petitioner is arbitrary, illegal and against principles of natural justice. The Enquiry Officer has not given due weight to the evidence given by the petitioner. An order may be passed holding that the action of the Management in discharging the petitioner from service is illegal and unsustainable and direction may be issued to the Respondent to reinstate the petitioner in service with continuity of service and back wages.

4. The Respondents have filed Counter Statement contending as below:

During the year 2007 the petitioner was working as Cashier in Dindigul branch of the Respondent. It came to light that on 15.06.2007 Vijayalakshmi, a SB Account holder had remitted Rs. 30,000/- in cash to the credit of her account and the petitioner who was handling the cash department on that day had given her a counterfoil duly sealed and signed by him. The petitioner did not account for the amount received from Vijayalakshmi nor did he report any excess amount while closing the cash balance. On 22.06.2007 when Vijayalakshmi called at the branch to get her pass book updated she found that the amount remitted on 15.06.2007 was not credited to her account. Vijayalakshmi produced the counterfoil and the petitioner admitted having received the amount before the Branch Manager and agreed to credit the amount to her account on the condition that she should hand over the original counterfoil to him. Vijayalakshmi handed over the counterfoil to the Branch Manager. The Manager took a photocopy of the counterfoil. The petitioner handed over the sum of Rs. 30,000/- to the Branch Manager after the original counterfoil was given to him and the amount was credited to the account of Vijayalakshmi. On 12.11.2007 by 0530 PM the petitioner reported to the Officer Sri Vinoj that there was a cash shortage of Rs. 1,00,000/- and on verification it was found that the exact shortage was Rs. 99,983/-. The petitioner was not able to explain the shortage. As the shortage could not be traced, the amount was debited to sundry Debtors Account of the branch. On 13.11.2007 by 0700 PM the petitioner remitted the amount. A Show-Cause Notice was issued to the petitioner and he was placed under suspension and charge sheet was issued to him on 23.02.2008. On enquiry the Enquiry Officer gave report holding that the charges other than misappropriation of the amount of Rs. 30,000/- is proved. The Disciplinary Authority differed with the finding of the Enquiry Officer and found that the charge of misappropriation also is proved. A second Show-Cause Notice was issued to the petitioner proposing punishment and after hearing the

petitioner the punishment of discharge from service with superannuation benefits without disqualification for future employment was imposed on the petitioner. The punishment awarded to the petitioner is fully justified. The petitioner is not entitled to any relief.

5. The evidence in the case consists of oral evidence of WW1 and documents marked as Ext.W1 to Ext.W15 and Ext.M1 to Ext.M59.

6. My predecessor in office had passed an award on 27.09.2011 answering the reference against the petitioner. The petitioner had approached the Hon'ble High Court of Madras and the High Court has set aside the award with a direction to consider the dispute afresh and dispose the matter within six months. It is accordingly the present revised order is being rendered.

7. **The points for consideration are:**

- (i) Whether the action of the Respondent in imposing the punishment of discharge from service on the petitioner is justified?
- (ii) What if any is the relief to which the petitioner is entitled?

#### **The Points**

8. The petitioner had entered the service of the Respondent Bank as a Sub-Staff in the year 1984. He had been later promoted to the post of Clerk-cum-Cashier and he was working in this capacity at Dindigul branch of the Bank while the incidents referred to in the charge sheet against him allegedly occurred. On 12.11.2007 while the petitioner was working as Cashier shortage of Rs. 99,983/- was noticed before closing the cash balance. The petitioner himself had reported the same to the Officer concerned and the cash was closed after debiting to Sundry Debtors Account in his name. On the next day he has reimbursed the amount. An investigation was ordered regarding the above incident. The Investigating Officer, during his investigation had requested for details of any past flaw on the part of the petitioner and it was in reply to this request the Manager of the Dindigul branch had informed him about the incident that is said to have taken place on 15.06.2007. He had informed the Investigating Officer that on 22.06.2007 Vijayalakshmi an account holder had complained to him that the petitioner has failed to credit Rs. 30,000/- that was remitted by her towards her account, that she had produced the counterfoil and the petitioner had remitted the amount of Rs. 30,000/- to the account of Vijayalakshmi after obtaining the original counterfoil which was handed over to him by Vijayalakshmi. It seems only on 22.06.2007 when Vijayalakshmi made the complaint, the incident was noticed by the Branch Manager. The Manager is said to have dropped the matter without reporting to the Superior Officers since the petitioner had remitted the amount and also because Vijayalakshmi whose only demand was that she should have the amount in her

account and wanted an amicable settlement refused to give a complaint in writing. When the Investigating Officer received report of this from the Manager in answer to his query regarding the past conduct of the petitioner, he submitted a report regarding this also apart from the shortage that had occurred on 12.11.2007.

9. The counsel for the petitioner has advanced a preliminary contention that the charge itself is very vague and therefore the petitioner was not in a position to answer the charges and for this reason itself the punishment imposed on the petitioner will not stand scrutiny of law. On going through the charge sheet which is marked as Ext.W2, I find that there is no basis for this contention raised on behalf of the petitioner.

10. It was on the basis of the Investigation Report a charge sheet has been issued to the petitioner. The charge sheet included the incident of the alleged failure to remit Rs. 30,000/- in the account of Vijayalakshmi and misappropriation of this amount also, though the suspension of the petitioner was based on the shortage of cash that occurred on 12.11.2007 only. The details of the shortfalls or misconduct allegedly committed by the petitioner are narrated in detail in the charge sheet. Regarding the incident of 12.11.2007 it is stated that a shortage of Rs. 99,983/- was found while closing the cash. The incident pertaining to 15.06.2007 that is the alleged failure to credit the amount received by the petitioner towards the account of Vijayalakshmi also is narrated in the charge sheet. There is a specific charge that the amount of Rs. 30000/- which was retained by the petitioner without crediting to the account of Vijayalakshmi has been misappropriated by him. The charge also states that by the acts or the omissions detailed the petitioner has committed gross negligence involving or likely to involve the Bank in serious loss and moral turpitude under Clause-5j of Memorandum of Settlement on disciplinary procedure. Of course, the charge sheet contains details such as conduct on the part of the petitioner towards Vijayalakshmi, the account holder, his non-cooperation in the investigation by failing to produce the original counterfoil etc. also. However, these things do not affect the clarity of the main charges detailed in the charge sheet. The charges are sufficiently detailed to enable the petitioner to know what all are the charges to which he is answerable.

11. The Enquiry Officer has filed a report finding that the charge of shortage of Rs. 99,983/- on 12.11.2007 and failure to credit Rs. 30,000/- on 15.06.2007 are proved. However, regarding the charge of misappropriation of Rs. 30,000/- he had found that there is no sufficient evidence to prove the charge of misappropriation and had entered a finding against the Management. The Disciplinary Authority who considered the report felt that the charge of misappropriation also is proved and entered a tentative finding to this effect. A show-cause notice was issued to

the petitioner based on this tentative finding, opportunity was given to him to put forth his case and after hearing him the punishment proposed was confirmed.

12. Before going into the evidence in detail it would be better to refer to the argument advanced by the counsel for the petitioner questioning the manner in which the Disciplinary Authority had conducted its proceedings. The counsel has referred to the decision of High Court of Madras in VEERASEKARAN AND OTHERS VS. MANAGING DIRECTOR, TASMAL reported in 2010 4 LLJ 1172 where it was held that if the Disciplinary Authority differs with the view taken by the Enquiry Officer he is bound to give notice setting out his tentative conclusions to the employee. On going through the enquiry proceedings it could be seen that it is not a case where notice was not given to the petitioner or he was denied opportunity to have a say in the matter. It is seen from Ext.W13 order of the Disciplinary Authority that on disagreeing with the enquiry officer and tentatively holding the petitioner guilty the petitioner was issued notice for a personal hearing. Accordingly, he had appeared before the Disciplinary Authority on 04.05.2009 along with a representative and he had made his submission orally and in writing. So there is no force in the argument advanced that the order of the Disciplinary Authority is bad for want of notice prior to passing an order based on a conclusion different from that of the Enquiry Officer.

13. Now it is to be seen whether the Respondent had succeeded in establishing the charges against the petitioner. So far as the incident dated 12.11.2007 is concerned, it is a matter admitted by the petitioner himself that there was a shortage of Rs. 99,983/-. The petitioner himself has reported the matter to the Cash Officer Sri Vinod who has been examined in the enquiry proceedings as MW2. Immediately cash receipts, cash scrolls and other relevant records were verified but they were not able to locate the shortage. The cash was closed on that day debiting the cash shortage to Suspense Account in the name of the petitioner. On the next day itself the petitioner had made good the shortage by remitting the amount.

14. It is a fact that there was a shortage on 12.11.2007 while the petitioner was in cash. This certainly accounts for the negligence on the part of the Respondent. Since the matter was immediately reported the Respondent could not have alleged misappropriation on the part of the petitioner regarding the shortage and there is no such charge in Ext.W2, the charge sheet.

15. There was an attempt on the part of the Respondent's counsel to show that the shortage was not on account of mere negligence but there was a calculated attempt on the part of the petitioner to show that it was a shortage which he could not explain, though he had removed the amount and misappropriated the same. In support of this it was pointed out that in the morning of

12.11.2007, while the petitioner was sitting in cash he complained that he is not well and had requested the help of a second Cashier and accordingly help was rendered also. According to MW2, it was not a crowded day and there was no rush in the bank and there was no necessity for second Cashier in the day. So he had initially refused to provide the assistance of a Cashier. However, the petitioner is said to have requested again consequent to which MW4 was deputed as second Cashier. However, after sometime he was withdrawn from the place as it was found that there was no rush at all. There is the evidence given by MW2 as well as MW4 that the cash receipts and payments made by MW4 on the day were properly accounted and they were handed over to the petitioner. Though during the enquiry proceedings when the Enquiry Officer had questioned the petitioner after evidence of the Management was closed, the petitioner had advanced a case that he was not able to verify it properly, there was no such case for him earlier. He seems to have accepted the amount entrusted by MW3 fully satisfied of its correctness. However the fact that the assistance was taken for dealing with cash on the day could not be interpreted as an attempt on the part of the petitioner for some foul play. It has come out in evidence that he was having some illness and in all probability he sought help because of his illness. The incident of 12.11.2007 is certainly the result of negligence on the part of the petitioner. The petitioner has accepted his folly and he has made good the shortage by remitting the amount on the next day itself. So the first charge regarding the incident on 12.11.2007 is not one that calls for major punishment on the petitioner.

16. Now it is to be seen whether the charge that the petitioner had failed to credit Rs. 30,000/- to the account of Vijayalakshmi on 15.06.2007 and had misappropriated this amount is correct. The Enquiry Officer, while finding that he has failed to credit the amount has reasoned that during the month of June 2007 there were several instances of excess cash found and credited to Sundry Creditors Account. According to him, on earlier instance the petitioner had accounted for the excess cash found at his hands on various occasions, which he could have easily misappropriated, but he had not done this and so the petitioner could not be said to have misappropriated the amount of Rs. 30,000/-.

17. Though the charge of failure to credit Rs. 30,000/- to the account of Vijayalakshmi was found out only incidentally during the investigation regarding the incident of 12.11.2007, there can be no doubt that there was failure on the part of the petitioner in crediting the amount. The matter seems to have been hushed up by the Branch since the petitioner agreed to remit the amount immediately after the concerned account holder found out the same and the petitioner remitted the amount. There cannot be any doubt regarding the occurrence of the incident on 15.06.2007.

The chain of events consequent to the incident had been spoken to clearly by the Branch Manager examined as MW7, Cash Officer Vinoj examined as MW2 and also account holder Vijayalakshmi examined as MW6. The case that is set up by the petitioner is that all these witnesses have given evidence against him because of their vindictive attitude towards him. However, it is to be borne in mind that the Branch Manager himself had not reported the matter to the superior officer in his attempt to protect the petitioner from any proceedings that would have been initiated against him. It was only because of the query from the Investigating Officer he happened to reveal the incident. So the petitioner could not attribute vindictiveness on the Branch Manager.

18. There is clear evidence given by the account holder regarding the incident. She has stated during her examination that she has gone to the branch on a Friday and had remitted money to her account. She was given a counterfoil and she was asked to reach the bank on the next day to make entry in the Pass Book. She is an LIC agent and used to go to the bank to remit amount received by her as premium from LIC holders. On the next Friday she had gone to the branch and she had found out that the amount was not credited to her account. She approached the Branch Manager and informed him about this. The petitioner seems to have taken the stand at the time that she had not remitted the money at all. She had remained in the branch till 0730 in the evening to have the matter solved. After the incident had come to light she seems to have given a complaint and this has been marked in the enquiry proceedings also. During cross-examination she has deposed that she had remitted the money standing in the queue and the counterfoil was issued by the petitioner.

19. There is also the evidence given by the MW7, the Branch Manager regarding the incident. He has stated that MW6 was shocked when she found that the money was not credited to her account. She did not want to give a complaint in writing for fear of consequences since she was moving around being an LIC agent. He had further stated that he had not reported the matter to the higher-ups since MW6 had told him that she wanted only her money back and the petitioner had requested him not to report the matter.

20. It is the evidence of MW7 that the petitioner had remitted the amount only on the condition that the original counterfoil is entrusted to him. So MW7 had handed over the counterfoil to the petitioner before he was made to remit the amount of Rs. 30,000/-. However, in the meanwhile he had seen to it that a photocopy of the counterfoil is taken and this has been produced in the enquiry proceedings. It is clear from the contradictory stand taken by the petitioner during the enquiry proceedings that the counterfoil was with him. MW1, the



Investigating Officer has questioned the petitioner during his investigation and the petitioner has told him that the counterfoil is at his house and he would be producing it later. However, at the subsequent stage of the enquiry proceedings the petitioner has taken the stand that he had not issued the counterfoil at all and he has not told the Investigating Officer that he is having it. The stand taken then was that the Investigating Officer being one who is not conversant with Tamil, his version was translated by the Branch Manager who was along with him and a wrong translation to the detriment of the petitioner was given. However, the Investigating Officer himself has stated that the petitioner was answering his queries using English as well. Though the petitioner has started as a Sub-Staff he had acquired the qualification of MA and was doing his MBA at the time of enquiry proceedings. So, as commented by the Disciplinary Authority, there was no justification for the petitioner in raising such a contention at all.

21. The stand of the petitioner that he remitted the amount only because of coercion by the Manager also could not be accepted. The petitioner was vigilant to get the original of the counterfoil before he made the remittance. MW7, the Branch Manager has stated that he even refused to make remittance in his own name. However, it is clear from the version of the petitioner to the Enquiry Officer that he himself remitted the amount, though he would say that it was out of coercion. It is clear that the petitioner had agreed to remit the amount when it was found out by MW6 and the Bank that the counterfoil was issued with the seal "Cash Received" and yet he had not remitted the amount.

22. Now it is to be considered whether it was a case of misappropriation of the amount of Rs. 30,000/- on the part of the petitioner. The reasoning given by the Enquiry Officer to enter a finding that the petitioner has not committed the misconduct of misappropriation has no justification. It is only natural that the Disciplinary Authority who scanned the evidence and scrutinized the report found his reasoning unacceptable. That on an earlier occasion the petitioner had reported excess cash of a small amount could not be a justification for finding that he has not committed the offence of misappropriation. The incident is to be viewed and assessed on its own to find out if there was misappropriation. The petitioner who had issued the counterfoil on accepting amount remitted by MW6 should have been in possession of excess cash with him on the day even if he has omitted to take further steps regarding the remittance made. However, he has not reported the matter while closing the cash. He had been keeping silence until MW6 came to the branch and enquired about the same. If the petitioner has retained the cash that only means he has misappropriated the same. There is no reason to differ from the finding given by the Disciplinary Authority in this respect.

23. Now the question to be considered is whether the punishment imposed on the petitioner is disproportionate to the nature of offence, as argued by the counsel for the petitioner. Certainly, the Tribunal has the power to interfere if the punishment imposed is more severe in nature when compared to the nature of the offence. While imposing the punishment the Disciplinary Authority had allowed the petitioner to have superannuation benefits and other benefits that will be due. The imposition of a lesser punishment would mean that the petitioner will have to be reinstated in service. The petitioner was working in a position which requires utmost confidence. He has committed breach of this confidence put on him by retaining the amount of a customer and putting it to his own use. So a more lesser punishment is not called for in the matter. Therefore, the petitioner is not entitled to any relief.

24. In view of my discussion above, the reference is answered against the petitioner.

An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

#### Witnesses Examined :

For the 1st Party/ : WW1, Sri V. Swaminathan  
Petitioner

For the 2nd Party/ : None  
Management

#### Documents Marked:

##### On the petitioner's side

Ex.No.	Date	Description
Ex.W1	22.11.2007	Order of Suspension
Ex.W2	23.02.2008	Charge Sheet
Ex.W3	03.01.2008	Investigation Report
Ex.W4	14.11.2007	Letter from DGM/HO
Ex.W5	15.11.2007	Medical Report
Ex.W6	23.11.2007	Letter from Branch Manager
Ex.W7	15.06.2007	Cash Challans
Ex.W8	10.06.2008 to 01.08.2008	Enquiry Proceedings
Ex.W9	06.11.2008	Order of revocation of suspension
Ex.W10	14.09.2008	Written submission by D.R.
Ex.W11	26.12.2008	Findings of the Enquiry Officer
Ex.W12	04.05.2009	Written submission made by the workman
Ex.W13	26.05.2009	Order of Discharge
Ex.W14	12.06.2009	Appeal to DGM
Ex.W15	05.01.2010	Order of the Appellate Authority

**On the Management's side**

Ex.No.	Date	Description	Ex.M43	15.06.2007	Pay-in-Slip for Rs. 20,000/- SB A/c – 9463 of R. Rajagopal
Ex.M1	25.04.2008	Daily order sheet	Ex.M44	15.06.2007	Pay-in-Slip – for Rs. 56,275/- A/c of Sundry Deposit
Ex.M2	16.06.2008	Daily order sheet	Ex.M45	15.06.2007	Pay-in-Slip – for Rs. 500/- A/c of P. Chandra Kumar
Ex.M3	15.07.2008	Daily order sheet	Ex.M46	22.11.2007 & 14.11.2007	Securities inspection and document verification Register Page 29, 30
Ex.M4	16.07.2008	Daily order sheet	Ex.M47	10.11.2007 & 13.11.2007	Cash balance – page 87, P88, P89 – Dindigul branch – Dindigul
Ex.M5	16.07.2008	Enquiry Proceedings – Evidence of MW-6 – Ms. R. Vijayalakshmi	Ex.M48	10.11.2007 & 12.11.2007	Double Lock Register – Page 61, 62, 63 – Dindigul branch
Ex.M6	31.07.2008	Daily order sheet	Ex.M49	10.11.2007 12.11.2007 13.11.2007	Postage Register Page 64, 65, 66, 67, 68, 69 and Teller's Cash Book dated 12.11.2007, Postage Register-Page No. 70, 71, 72 & 73
Ex.M7	01.08.2008	Daily order sheet	Ex.M50	-	Cashier Receipts Scroll and Payment Scroll for 15.06.2007 – Dindigul Branch and cash scroll summary as on 15.06.2007
Ex.M8	03.01.2008	Investigation Report	Ex.M51	-	Cashier Receipts Scroll and Payment Scroll for 22.06.2007 – and cash scroll summary as on 22.06.2007
Ex.M9	11.04.2007	Letter from Dindigul branch to Zonal Office, Coimbatore	Ex.M52	-	A/c Statement from 03.04.2007 to 31.03.2008 of A/c No. SB101/010609 – Ms. Vijayalakshmi
Ex.M10	23.11.2007	Proceedings in respect of clarifications offered by petitioner in respect of shortage in cash	Ex.M53	19.05.2008	Complaint of R. Vijayalakshmi SB A/c No. 10609 to Branch Manager, Dindigul – Reg. Harassment of Petitioner
Ex.M11	04.12.2007	Letter from Dindigul branch to Vigilance Cell, Mangalore	Ex.M54	21.05.2008	Letter from Senior Manager, Dindigul branch to Mangalore, forwarding the letter of R. Vijayalakshmi
Ex.M12	13.11.2007	Agreement between Abirami Auto Finance and Hirer – V. Swaminathan – Petitioner	Ex.M55	08.04.2006 15.03.2007 01.04.2007 & 31.03.2008	G.L. Detailed Report from 01.04.2006 to 31.03.2007 and from 07.04.2007 to 20.03.2008 and 01.04.2008 to 15.05.2008
Ex.M13	13.11.2007	Promissory Note executed by V. Swaminathan – Petitioner for Rs. 1.00 lakh	Ex.M56	21.12.2007	Pay-in-Slip – M. Thangaraj – A/c No. 11789 – Rs. 500/-
Ex.M14	21.11.2007	Proceedings of Manager, Vigilance Cell in respect of visit made by him to the residence of Petitioner	Ex.M57	15.04.2008	Notice of enquiry sent by E.O. to Petitioner
Ex.M15	25.11.2007	Certificate of fitness issued to the petitioner by Dr. N. Rajaram	Ex.M58	04.08.2008	Written brief submitted by Mr. Janardhan Prabhu – Manager – H.O. Mangalore
Ex.M36	22.11.2007	Letter from Manager – Vigilance Cell – Mangalore to Branch Manager – Dindigul			
Ex.M37	15.06.2007	Pay-in-slip signed by Ms. K. Bakkiyam-SB A/c No. 9281 – for Rs. 2200			
Ex.M38	15.06.2007	Pay-in-Slip for Rs. 105/-			
Ex.M39	15.06.2007	Pay-in-Slip for Rs. 9705/-paid into the account of Vignesh Sports			
Ex.M40	15.06.2007	Pay-in-Slip – for Rs. 1000/- - New A/c – R. Vinothini			
Ex.M41	15.06.2007	Pay-in-Slip for Rs. 1,000/- SB A/c No. Shanmughasundaram			
Ex.M42	15.06.2007	Pay-in-Slip for Rs. 3,300/- SB A/c No. D. Muthukamatchi			

Ex.M59 31.03.2009 Letter from Manager – Mangalore to Petitioner enclosing copy of proceedings dated 31.03.2009 proposing punishment of discharge and calling for his explanation and also enclosing copy of Enquiry Report.

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 298.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 42/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[ सं. एल-12011/73/2012-आईआर (बी-II) ]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th February, 2015

**S.O. 298.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 13/02/2015.

[No. L-12011/73/2012-IR(B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 6th January, 2015

**Present :** K.P. PRASANNA KUMARI,  
Presiding Officer

#### Industrial Dispute No. 42/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their workman)

#### BETWEEN

The General Secretary : 1st Party/Petitioner  
Indian Bank Employee's Union  
Association, No. 17,  
Ameerjan Street  
Choolaimedu  
Chennai-600094

#### AND

The General Manager : 2nd Party/Respondent  
Indian Bank Zonal Office  
Chennai North  
24/21, Ethiraj Salai  
Chennai-600008

#### Appearance :

For the 1st Party/ : Sri G. Gopal, Authorized  
Petitioner Representative  
For the 2nd Party/ : Sri T.S. Gopalan & Co.,  
Respondent Advocates

#### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/73/2012-IR (B-II) dated 11.03.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Indian Bank in dismissing Sri S. Manoharan, Clerk/Shroff of Red Hills Branch is legal and justified? What relief the concerned workman is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 42/2013 and issued notices to both sides. The petitioner has entered appearance through the authorized representative and the Respondent through the counsel and filed claim and counter statement respectively.

3. The averments in the Claim statement filed by the petitioner in brief are these:

The petitioner is a Union registered under the Trade Union act and has substantial following in the Respondent Bank. The Union takes up genuine grievances of its members who are working in the Respondent Bank. Sri Manoharan a member of the Petitioner Union was working in the Red Hills branch of the Respondent as Clerk/Shroff. A Charge Sheet dated 09.12.2009 was issued to him by the circle office. In the Charge Sheet it was alleged that on 12.06.2009 Rs. 3,500/- has been remitted with him in cash to be credited to the account in the name of Chandrammal and Nageshwari and he had issued counterfoil to the remitter but he has not credited the amount to the account. It was further alleged that on 19.06.2008 one Prabhu Ram had remitted Rs. 13,000/- by cash with Manoharan and he had issued counter foil for the same but he has not credited the amount to the account on the said day. The above acts of Manoharan were described as gross misconduct under Clause-5(j) of the Memorandum of Settlement on disciplinary action and procedure dated 10.04.2012. Manoharan had given a letter to the disciplinary authority admitting the lapses on his part and at the same time denying the allegation that these

amounted to misappropriation. A domestic enquiry was conducted on the charges and the Disciplinary Authority imposed the punishment of dismissal without notice on Manoharan. The appeal filed by him against the order of dismissal was rejected. Manoharan had not committed any act of misappropriation. He had honestly admitted his lapses. He has expressed his readiness to undergo any punishment other than dismissal from service. Regarding the first charge the complainant had withdrawn the complaint subsequently. Regarding the second charge, the matter has been closed with the knowledge of the concerned customer and the Manager of the Bank. It has been re-opened after a year. An order may be passed setting aside the punishment of dismissal from service.

4. The Respondent has filed Counter Statement contending as follows :

Manoharan the concerned workman had joined the service of the Respondent as Sub-Staff in 1980 and was promoted as Clerk in 1994. He was posted as Single window Operator / Cashier at the Red Hills Branch in 2005. A single Window Operator is entitled to allowance as per the Bipartite Settlement. A customer can approach any SW counter to avail any of the services. In case of drawing cash from SB Account through SW Counter passing of cheque and making payment is limited to Rs. 20,000/-. Clearance at Officers level is not required for cheques upto Rs. 20,000/- coming through SW Counter. In case of withdrawal by suing the Withdrawal Slip the account holder should personally come to the branch or he should give an authorization to the person who presents the withdrawal slip and the account holder concerned or the authorized person should come to the branch with the Pass Book. After the concerned workman was posted at Red Hills Branch there were complaints from customers that remittances made by them were not being credited to their account during the periods when he was posted as Single Window Operator. During a surprise cash inspection in the year 2008 while the concerned workman was a Single window Operator there was an excess cash of Rs. 10,000/- in the cash drawer of the concerned workman and he was not able to account for the same. In another instance he had received remittance of Rs. 4,500/- towards a loan account which was already closed. When the counterfoil of the challan was produced the concerned workman returned the amount. In another instance an excess cash of Rs. 500/- was found with the concerned workman and the same was credited to Sundry Creditor's account. On 12.11.2009, the Branch Manager received a complaint from one Bhuvaneshwari that she had remitted Rs. 3,500/- in her mother's account on 12.06.2009 but there was no entry in the Pass Book. The concerned workman and his people had prevailed upon the account holders to withdraw the complaint. Bhuvaneshwari and her mother had come to the Branch and informed that the petitioner had returned the amount of Rs. 3,500/- remitted to the account. On

23.11.2009 when Mariappan, the Senior Manager of the Circle Office visited Red Hills Branch the Branch Manager had traced an old file containing a letter of complaint from one Prabhu Ram against the concerned workman alleging that Rs. 13,000/- remitted by him on 19.06.2008 to his SB Account was not credited to the account. Charge Sheet was issued to the concerned workman referring to the complaints made by Chandrammal and Prabhu Ram and calling upon him to Show Cause why action shall not be taken. He had given a reply stating that he had omitted to account the amounts received from the customers and that he had not misappropriated the amounts. In the enquiry held subsequently he pleaded for lenience. The Disciplinary Authority ordered the punishment of dismissal of the workman from service. The dismissal is fully justified and is valid in law. The conduct of the concerned workman cannot be brushed aside as mere lapses or unintended mistakes. There is no necessity to interfere with the punishment imposed on the concerned workman.

5. The evidence in the case consists of oral evidence of WW1 and documents marked as Ext.W1 to Ext.13 and Ext.M1 to Ext.M40. No oral evidence was adduced on the side of the Respondent.

6. **The points for consideration are:**

- (i) Whether the action of the Management in dismissing Manoharan, the concerned workman is legal and justified?
- (ii) What if any is the relief to which he is entitled?

**The Points**

7. Disciplinary proceedings had been initiated against Manoharan, the concerned workman while he was working as Clerk/Shroff at Red Hills branch of the Respondent. Manoharan had joined the Respondent Bank as a Sub-Staff in 1980 and was promoted as Clerk after 14 years, in 1994. It was in 2005 he was posted at Red Hills Branch as Single Window Operator / Cashier.

8. While working in this capacity as Single Window Operator the charge sheet specifying two charges had been served on the concerned workman. The first charge was that he had failed to credit the amount of Rs. 3,500/- remitted with him on 12.06.2009 to the concerned account. The second charge was that on a previous occasion on 19.06.2008 he had failed to credit Rs. 13,000/- that had been remitted with him to the concerned account. A domestic enquiry was conducted on the charges against the concerned workman, not satisfied with the explanation given by the workman. On the basis of the admission made by the workman and also on the basis of the evidence let in by the Management before the Enquiry Officer the concerned workman was found guilty of both charges. Based on the enquiry report the Disciplinary Authority imposed the punishment of dismissal without notice on the concerned workman.



9. In fact the petitioner has not challenged the finding of guilt entered by the Enquiry Officer. The challenge is on the punishment imposed on the workman. The stress seems to be on the fact that the acts of misconduct on the part of the concerned workman will not amount to misappropriation on his part but only lapses on account of negligence.

10. On going through the documents produced it could be seen that even from the beginning the concerned workman had not challenged the acts of misconduct alleged against him. Ext.W3 is the reply given by the workman to the charge sheet which is marked as Ext.W1. In this he has stated that he has received Rs. 3,500/- from Chandrammal for remitting in her SB Account. He has explained that there was crowd in the bank at that time and since he knew the customer personally he had released the counterfoil signed by him with the idea to attend to the challan later but he had omitted to do so out of pressure of work. He had further stated that he had returned the amount to the customer on the same day evening but he had failed to record the same. He has stated that he has not misappropriated the amount. Regarding the second charge of failure to remit Rs. 13,000/- to the account of Prabhu Ram he has stated that he might have inadvertently acted in the same way as in the case of first charge, though not intentionally. He has added that he has not misappropriated any amount. On later occasions, during the enquiry proceedings and after this also the concerned workman had throughout admitted the acts of misconduct alleged against him, at the same time maintaining that those acts will not amount to misappropriation. During the enquiry proceedings, the concerned workman was given opportunity to cross-examine the four witnesses examined by the Management, but he has not cross-examined them, on each occasion stating that he has already admitted the charges. Ext.W4 is the reply given by the concerned workman to the Disciplinary Authority's letter calling for his comments on the report of the Enquiry Officer. In this also he has stated that he had admitted the charges leveled against him and that his only request is to avail the provision under Section 12(e) of the Bipartite Settlement dated 10.04.2002.

11. On going through the enquiry proceedings it could be seen that in spite of the admission made by the concerned workman by Ext.W3, an enquiry was conducted and the Management had placed the entire evidence before the Enquiry Officer. The Investigating Officer, the Manager of the Red Hills Branch, the Asstt. Branch Manager and also the two account holders viz. Chandrammal and Prabhu Ram were examined. All the relevant documents were also marked through the concerned witnesses. These witnesses have placed the facts before the Enquiry Officer with reference to the documents. The evidence of the witnesses or the

documents were not challenged by the concerned workman.

12. The stand of the concerned workman that the acts on his part will not amount to misappropriation but are only inadvertent lapses certainly could not be accepted. It could be seen from the evidence that it was only when the complaint was made he had made good the amount. This was not the conduct expected from a person who had no intention of misappropriation.

13. Probably aware of the gravity of the charges against him the concerned workman had maintained the stand that he is admitting the charges and that he may be proceeded against under Section 12(e) of the Bipartite Settlement regarding disciplinary proceedings. His only prayer was that the punishment of dismissal may not be imposed on him. This has not been heeded to by the Disciplinary authority and the severe punishment of dismissal without notice was imposed on him.

14. When the circumstances are considered it could be seen that the punishment of dismissal from service need not have been imposed on the concerned workman. True, he had failed to credit the two remittances. However, while imposing punishment the background and the circumstances could have been taken note of. The concerned workman entered service of the Respondent Bank in the year 1980. He was at the age of 57 when proceedings had been initiated against him. Though certain lapses on the part of the concerned workman on some previous occasions are also referred to by the Respondent, there is no case for the Respondent that any disciplinary action has been taken earlier against the workman. By the age of 57, by working for several years continuously the concerned workman had already earned his right to have pensionary benefits. The second charge against the concerned workman had been raised almost a year after the matter has been closed. Considering all these, I feel that Compulsory Retirement would have been sufficient punishment in the case. I am inclined to interfere with the punishment imposed by the Disciplinary Authority and convert it to one of Compulsory retirement with superannuation benefits. Accordingly an order is passed as follows:

The punishment imposed on the concerned workman is converted into one of Compulsory Retirement from service with superannuation benefits. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

#### Witnesses Examined:

For the 1st Party/ : WW1, Sri K. Krishnan  
Petitioner Union

For the 2nd Party/ : None  
Management

**Documents Marked :****On the petitioner's side**

Ex.No.	Date	Description
--------	------	-------------

Ex.W1	09.12.2009	Charge Sheet VIG/DPAS/408/2008 issued to Sri S. Manoharan by Indian Bank, Circle Office, Kanchipuram
-------	------------	--

Ex.W2	13.11.2009	Letter from Smt. E. Chandrammal regarding her previous complaint letter
-------	------------	---

Ex.W3	04.01.2010	Reply by Sri S. Manoharan for the Charge Sheet dated 09.12.2009
-------	------------	---

Ex.W4	18.03.2010	Letter by Sri S. Manoharan to the Enquiry Officer
-------	------------	---

Ex.W5	18.03.2010	Enquiry proceedings relating to deposition of Sri S. Manoharan (CSE)
-------	------------	--

Ex.W6	22.07.2010	Letter VIG/DPAS/408/2009 by Disciplinary Authority proposing punishment
-------	------------	---

Ex.W7	05.08.2010	Reply letter to the above
-------	------------	---------------------------

Ex.W8	06.08.2010	Order VIG/DPAS/408/2009 by the Disciplinary Authority imposing punishment of dismissal without notice on the employee Sri S. Manoharan
-------	------------	--

Ex.W9	17.11.2010	Appeal to the Appellate Authority against the punishment
-------	------------	--

Ex.W10	16.03.2011	Order of the Appellate Authority confirming the punishment
--------	------------	--

Ex.W11	26.04.2011	Letter IBEA/GEN/82/2010-13 by the Petitioner Union to the Asstt. Labour Commissioner, Chennai raising an Industrial Dispute against the punishment
--------	------------	--

Ex.W12	29.02.2012	Reply letter by the Management of Indian Bank to the above letter
--------	------------	---

Ex.W13	28.03.2012	Rejoinder by the Petitioner Union
--------	------------	-----------------------------------

**Documents Marked :****On the Management's side**

Ex.No.	Date	Description
--------	------	-------------

Ex.M1	24.11.2009	Order issued to Manoharan suspending him from work (with his acknowledgement)
-------	------------	---

Ex.M2	25.11.2009	Letter from Red Hills Branch to AGM/DA – CO/Kancheepuram
-------	------------	--

Ex.M3	09.12.2009	Charge Sheet issued to Manoharan enclosing list of documents numbering 7 (with acknowledgement)
-------	------------	---

Ex.M4	24.12.2009	Letter from Indian bank, CO, Kancheepuram to S. Manoharan advising to submit his reply for the charge sheet before 28.12.2009 with acknowledgement
-------	------------	--

Ex.M5	11.01.2010	Letter from Bank to Manoharan enclosing enquiry order dated 11.01.2010
-------	------------	--

Ex.M6	13.02.2010	Representation of Manoharan to the charge sheet dated 09.12.2009
-------	------------	--

Ex.M7	20.02.2010	Reply from Bank to Manoharan's representation dated 13.02.2010 (with acknowledgement)
-------	------------	---

Ex.M8	09.02.2010 13.02.2010 26.02.2010 11.03.2010	Proceedings of the Enquiry
-------	--	----------------------------

Ex.M9	19.04.2010	Letter from Bank to Manoharan enclosing Presenting Officers Brief and calling for defence brief
-------	------------	---

Ex.M10	24.05.2010	Letter from Bank to Manoharan reminding him to submit defence proof on or before 29.05.2010
--------	------------	---

Ex.M11	31.05.2010	Defence (Manoharan's) Brief.
--------	------------	------------------------------

Ex.M12	11.06.2010	Letter from Bank to Manoharan enclosing findings of the Enquiry Officer dated 05.06.2010 and calling of his comments
--------	------------	--

Ex.M13	22.07.2010	Second Show Cause Notice issued from Bank to Manoharan proposing punishment of dismissal without notice with acknowledgement and advising to appear for personal hearing on 30.07.2010
--------	------------	--

Ex.M14	30.07.2010	Letter from bank requesting to Manoharan postponing the personal hearing fixed on 30.07.2010 to 05.08.2010 at his request (with acknowledgement)
--------	------------	--

Ex.M15	05.08.2010	Reply from Manoharan to the Second Show Cause Notice of the Disciplinary Authority
--------	------------	--

Ex.M16	13.11.2009	Letter of Red Hills Branch addressed to Assistant General Manager, CO, Kancheepuram
--------	------------	---

Ex.M17	12.11.2009	Letter of Smt. E. Chandrammal, holder of SB No. 498158265 addressed to BM, Red Hills Branch	Ex.M32	24.06.2008	Challan for having remitted cash Rs. 13,000/- for credit of SB No. 455078559- Pay-in-slip-C. Prabhu Ram
Ex.M18	12.06.2009	Copy of counterfoil issued for having remitted cash Rs. 3,500/- for credit of SB No. 498158265	Ex.M33	25.07.2007	Letter of Red Hills Branch, addressed to Mr. S. Manoharan, Cl/Sh.
Ex.M19	13.11.2009	Letter of Smt. E. Chandrammal addressed to Manager, Red Hills Branch	Ex.M34	31.07.2007	Letter of Mr. S. Manoharan, addressed to the Manager, Red Hills Branch
Ex.M20	23.06.2008	Letter of Sri C. Prabhu Ram, holder of SB Account No. 455078559 addressed to the Manager, Red Hills Branch	Ex.M35	18.03.2008	Letter of Red Hills Branch addressed to DGM/Circle Head, CO, Kanchipuram
Ex.M21	19.06.2008	Copy of counter foil issued for having remitted cash of Rs. 13,000/- for credit of SB No. 455078559	Ex.M36	31.03.2008	CO, Kanchipuram, Audit Section letter addressed to BM, Red Hills Branch
Ex.M22	27.11.2009	Investigating Report of Mr. M. Mariappan, Senior Manager	Ex.M37	10.12.2009	Red Hills Branch's letter addressed to CO, Kancheepuram, forwarding copies of documents
Ex.M23	-	SB Pass Book copy – SB No. 498158265 – E. Chandrammal and Nageswari	Ex.M38	12.11.2009	Challan for Rs. 8,000/- for cash remitted into account SB No. 498158265 of E. Chandrammal – Pay-in-Slip
Ex.M24	21.11.2009	Written statement of Mr. S. Manoharan, Clerk/Shroff	Ex.M39	12.11.2009	Report of cash related transactions – evidencing the above transaction for Rs. 8,000/- SB A/c No. 498158265 E. Chandrammal
Ex.M25	23.11.2009	Written statement of Mr. Y. Rama Moorthy Raju, Senior Manager (BM), Red Hills Branch	Ex.M40	12.11.2009	Teller Report – evidencing the above transaction for Rs. 8,000/- SB A/c No. 498158265 – E. Chandrammal.
Ex.M26	23.11.2009	Written statement of Mr. V. Sundaram, Manager (ABM), Red Hills Branch	नई दिल्ली, 13 फरवरी, 2015		
Ex.M27	23.11.2009	Written statement of Smt. E. Chandrammal and Ms. Bhuvaneswari	<p><b>का.आ. 299.</b>—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 51/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।</p> <p>[ सं. एल-12012/24/2014-आईआर (बी-II) ]</p> <p>रवि कुमार, डेस्क अधिकारी</p> <p>New Delhi, the 13th February, 2015</p> <p><b>S.O. 299.</b>—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Bank</p>		
Ex.M28	23.11.2009	Written statement of Mr. C. Prabhu Ram, holder of SB Account No. 455078559			
Ex.M29	13.11.2009	Counterfoil issued for having remitted cash for Rs. 3,500/- for credit of SB No. 498158265. Pay-in-Slip – E. Chandrammal			
Ex.M30	13.11.2009	Challan for having remitted cash Rs. 3,500/- for credit of SB No. 498158265 – Pay-in-Slip – E. Chandrammal			
Ex.M31	24.06.2008	Counterfoil issued for having remitted cash Rs. 13,000/- for credit of SB No. 455078559 – Pay-in-slip – C. Prabhu Ram			

and their workmen, received by the Central Government on 13/02/2015.

[No. L-12012/24/2014-IR(B-II)]

RAVI KUMAR, Desk Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 2nd February, 2015

**Present :** K.P. PRASANNA KUMARI,  
Presiding Officer

### Industrial Dispute No. 51/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their workman)

### BETWEEN

Smt. K. Nagamani : 1st Party/Petitioner

### AND

The Chief Manager : 2nd Party/Respondent  
Indian Bank, HRM Department  
Zonal Office, 359,  
Dr. Nanjappa Road  
Coimbatore-641018

### Appearance :

For the 1st Party/ : M/s P.S. Ratnamani,  
Petitioner P. Mathivanan

For the 2nd Party/ : M/s Aiyar & Dolia,  
Respondent Advocates

### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/24/2014-IR (B.II) dated 24.06.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Indian Bank, Coimbatore in terminating the services of K. Nagamani, Sub-Staff on the ground that she had voluntarily vacated employment is justified? What relief Smt. Nagamani is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 51/2014 and issued notices to both sides. Both sides entered appearance and filed Claim Statement and Counter Statement respectively.

3. The case was being posted for enquiry repeatedly. The counsel for the petitioner has reported that the petitioner has not turned up in spite of his informing her

of the posting of the case for enquiry. The counsel has endorsed on the Vakalat that he has no instruction from the petitioner.

4. The petitioner seems to be not interested in pursuing the case. The petitioner is said to have abandoned service by her continued absence. The counter statement reveals that she has raised the dispute after long three years of her absenting herself from duty. The only assumption to be drawn is that the petitioner has abandoned the dispute also. So the reference is to be answered against her.

5. Accordingly the reference is answered against the petitioner. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

### Witnesses Examined:

For the 1st Party/ : None  
Petitioner

For the 2nd Party/ : None  
Management

### Documents Marked :

### On the petitioner's side

Ex.No.	Date	Description
		N/A

### On the Management's side

Ex.No.	Date	Description
		N/A

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 300.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 24/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-12011/16/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th February, 2015

**S.O. 300.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 13/02/2015.

[No. L-12011/16/2012-IR(B-II)]

RAVI KUMAR, Desk Officer



**ANNEXURE**  
**BEFORE THE CENTRAL GOVERNMENT**  
**INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,**  
**CHENNAI**

Wednesday, the 17th December, 2014

**Present** : K.P. PRASANNA KUMARI,  
 Presiding Officer

**Industrial Dispute No. 24/2013**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their workmen)

**BETWEEN**

The General Secretary : 1st Party/Petitioner Union  
 Indian Bank Employees  
 Association (Tamilnadu)  
 17, Ameerjan Street,  
 Choolaimedu  
 Chennai-600094

**AND**

The Dy. General Manager : 2nd Party/Respondent  
 Disciplinary Authority  
 Indian Bank, Circle Office  
 Katpadi Road  
 Vellore.

**Appearance :**

For the 1st Party/ : Sri G. Gopal, Authorised  
 Petitioner Representative  
 For the 2nd Party/ : M/s T.S. Gopalan & Co.,  
 Management Advocates

**AWARD**

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/16/2012-IR (B.II) dated 06.02.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Management of Indian Bank in imposing the punishment of reduction of increment by one stage for two separate charges resulting in punishment of reduction of increment by two stages upon Sri V. Balakrishnan, SR No. 26513, Indian Bank, Sankaramallur Branch is legal and justified? What relief the workman is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 24/2013 and issued notices to both sides. The petitioner has entered appearance through Authorized Representative and the Respondent through the counsel and filed claim and counter statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner is a Union registered under the Trade Union Act. It has substantial following among the workmen in the Respondent Bank and it takes up genuine grievances of its members and workers in the Respondent Bank. The Respondent has imposed the punishment of reduction of increment by two stages on Sri V. Balakrishnan, a member of the Petitioner Union for the fraud that has taken place in Arni Branch while he was working there. The Asstt. Branch Manager was the person who committed all the frauds. The Respondent had alleged by the charge sheet served on Balakrishnan that he has failed to verify certain instruments and has failed to obtain the signature of the presenter on the reverse side of the instrument, that the transactions were found to be fraudulent, that he has failed to ensure that certain persons who received payment from him are those who are entitled to receive the payment and also failed to get acknowledgement from the payee on the reverse side of the instruments when payments were made, that the transactions were subsequently found to be fraudulent, that he facilitated withdrawal of money from deceased pensioner's account resulting in misuse of government funds and thereby he has failed to protect the interest of the bank. A domestic enquiry was held against Balakrishnan. Even though the charges against him were not proved the disciplinary Authority imposed the punishment of reduction to lower scale of pay by one stage for charge 1 and 2 and censure for charge 3. The appeal preferred by Balakrishnan has been dismissed by the Appellate Authority. The dispute has been raised accordingly. The fraudulent transactions in Arni branch of the Respondent Bank took place during the period between August 2005 and August 2006. Elangovan, the then Asstt. Branch Manager of Arni Branch was responsible for the fraudulent transactions. The transactions were not the result of negligence of any staff or violation of systems and procedures by the staff. The Bank had failed in its duty of locking the deceased pensioner's account. If this had been done the fraud would not have taken place. Balakrishnan was a Sub-Staff promotee who was very sincere and honest in his work. The work load at Arni Branch was very heavy and there was shortage of manpower. Without considering all these, the Respondent had inflicted the punishment on Balakrishnan, the concerned workman. An order may be passed setting aside the punishment and restoring all the monetary loss suffered by the concerned workman, to him.

4. The Respondent has filed Counter Statement contending as follows :

If in the discharge of his duties an employee commits an irregularity by not conforming to the laid down procedures and systems, he is deemed to have done it at his own risk and it shall not be open to him to say that he did it under the instructions or orders of his superiors. If

any loss is caused by any irregularity on the part of the employee he is liable to make good the loss to the Bank. In the course of operations for switching over to Core Banking Solutions the Govt. of India Pension Account of the Arni Branch came up for scrutiny and the members of the project team who were carrying out electronic data processing for the purpose of conversion suspected some irregularities in the matter of payment of pension to some of the deceased pensioners. An investigation team was formed to go into the details. In the course of investigation it came to light that in respect of certain deceased pensioners, pension was paid after their death by means of withdrawal slips. In all such transactions pension account of the deceased pensioners was credited with large amounts by debiting Government of India Pension Account and thereafter withdrawal of amount was engineered through presenting withdrawal slip by unauthorized persons. The fraud was perpetrated by an Asstt. Branch Manager of Arni Branch. The concerned workman had passed entries based on the withdrawal slips though they were not accompanied by the Pass Book and had errors on the instrument. While acting as payment cashier he made certain payments without verifying the identity of the payees. He had debited Pension Account and made credit entries in the accounts of the existing account holders and withdrawals were made from those accounts. The irregularities on the part of the concerned workman were brought to his notice on 25.07.2007 and his explanation was called for. The reply given by him was not satisfactory so a charge sheet was issued to the concerned workman in respect of 27 transactions, many of them relating to deceased pensioner's account. The concerned workman gave a reply denying the charges and an enquiry was conducted and the Enquiry Officer gave his findings that the charges are proved. The Disciplinary Authority imposed the punishment of reduction to lower scale of pay by one stage without cumulative effect for Charge No. 1, reduction to lower scale of pay by one stage without cumulative effect for Charge No. 2 and punishment of censure for Charge No. 3. The fraud was perpetrated not only by the Asstt. Manager but by other Officers and Staff as well. Punishment was awarded to other staff also. The concerned workman is not entitled to any relief.

5. The evidence in the case consists of oral evidence of WW1 and documents marked as Ext.W1 to Ext.W13 and Ext.M1 to Ext.M14.

6. The points for consideration are:

- (i) Whether the action of the Respondent in imposing the punishment of reduction of increment by one stage each for two separate charges resulting in punishment of reduction of increment by two stages upon the concerned workman is legal and justified?
- (ii) What if any is the relief to which the concerned workman is entitled?

### The Points

7. It could be seen from the charge sheet marked as Ext.M6 that irregularities of three different kinds are alleged against the concerned workman. The incidents had happened while he was working as clerk in the Arni Branch of the Respondent Bank. According to the Respondent, an Assistant Manager of the Respondent Bank had facilitated fraud by withdrawing amounts from the accounts of several deceased pensioners. The allegation against the petitioner is that by his negligence and irresponsible actions he helped the perpetration of fraud though not intending it. As per the first charge the concerned workman had failed to verify 20 instruments and to see if they were in order and obtain the signature of the presenter on the reverse of the instrument at the time of issue of token. These instruments are of the period ranging from August 2005 to February 2006. The amounts involved in each of the transactions are in between Rs. 32,000 and Rs. 1,500/-. It subsequently turned out that all these transactions were fraudulent. The second charge against the petitioner is that regarding 27 transactions detailed in the charge sheet he failed to ensure that the persons who received payment are those who are actually entitled to receive them and also failed to get acknowledgement of the payee on the reverse side of the instrument against which the payment was made. These 27 transactions are of the period in between August 2005 and September 2006 and the amount involved in the transactions vary from Rs. 72,000/- to Rs. 1,000/-. The third charge is that in the above transactions the petitioner facilitated withdrawal of money from the deceased pensioner's account resulting in misuse of government funds.

8. A Show Cause Notice has been issued to the concerned workman regarding the irregularity or misconduct on his part and this is marked as Ext.W7. Ext.W8 is the reply given by him to the Show Cause Notice. On going through the reply it could be seen that the concerned workman did not deny the case that he is the one who had dealt with the instruments referred to in the three charges. He has also not stated in his explanation that he has not been responsible for the latches or negligence alleged against him by the charges. His attempt in the explanation has been to give reasons for the latches on his part. He has stated in the explanation that since substitutes were not provided after two of the staff in the branch have been relieved, the work burden in Arni Brnch was heavy and customer's pressure in all counters had increased and it was heavier in the Savings Bank counter also. According to him, to reduce the customer crowd the other staff members including subordinates were pressurized to give tokens to the customers. It had become practically impossible to identify the tenderer of the instrument or get his address. He has further stated that as the instruments were already verified, debited and passed by

the Section Officer-in-Charge he made the payments referred to in the second charge in good faith. According to him it was practically impossible and there was no such practice in the Arni Branch to collect the acknowledgement or address of the receiver during the time of payment. He had further stated that Elangovan, the Asstt Branch Manager has been exploiting his ignorance and compelling him to attend the transactions in question. Thus it could be seen that the concerned worker, rather than contending that there were no latches on his part was trying to explain the latches.

9. In the enquiry proceedings, the investigation report and the documents pertaining to the transactions were produced. Regarding the transactions under first charge the log copies were available. So far as the second charge is concerned also the log extracts were relied upon by him. The third charge is based on the first two charges and the finding on this charge is based on the findings of the two charges. Ext.M1 to Ext.M5 are produced by the Respondent to prove the procedure to be adopted while dealing with the customers and making payments. It is clear from the very admission made by the concerned workman that he was not following the procedure and the guidelines. If he was vigilant the fraud could have been avoided. The contention on the part of the petitioner that it was the Bank which was negligent by failing to lock the accounts of the deceased customers could not be accepted. Each of the employees of the establishment are expected to go by the procedure and be vigilant in their duty, more so in the case of a banking establishment which is dealing with the money of the Government, that of the pensioners and generally the entire public. It is very much clear that the concerned workman has been negligent in his duty. The finding that the charges against the concerned workman was proved was the only possible conclusion that could have been arrived at by the Enquiry Officer in the given circumstances.

10. The case on hand is not one that comes under Section-11A of the Industrial Disputes Act, it being not a case of discharge or dismissal of the workman. Such being the case this Tribunal has no jurisdiction to sit in judgment over the decision of the employer as an Appellate Body (1973 1 SCC 813 – WORKMAN OF FIRESTORE TYRE AND RUBBER CO. OF INDIA PVT. LTD. VS. MANAGEMENT AND OTHERS). Interference in the decision will be justified only when the findings arrived at in the enquiry are perverse or the Management is guilty of victimization, unfair labour practice or was acting in malafide manner. There is nothing to show that it is a case of victimization on the part of the Management or the Management acted in a malafide manner. As already stated the finding in the enquiry is not perverse as it was the only plausible conclusion flowing from the material available on record. So this Tribunal has no reason to sit in judgment over the decision of the Respondent also. In

the circumstances, the concerned workman is not entitled to any relief.

11. In view of my discussion above, the reference is answered against the petitioner.

An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

#### Witnesses Examined :

For the 1st Party/ : WW1, Sri K. Krishnan  
Petitioner Union

For the 2nd Party/ : -  
Management

#### Documents Marked :

##### On the petitioner's side

Ex.No.	Date	Description
Ex.W1	05.12.2006	Interim Report by Sri Ramamurthy, Senior Manager, Circle Office, Vellore. Irregularities observed under Govt. Pension accounts of Arni Branch of Indian Bank.
Ex.W2	12.12.2006	Report by Sri Ramamurthy, Sr. Manager, Circle Office, Vellore regarding irregularities/fraudulent transactions done by Mr. D. Elangovan, Asstt. Manager (relieved under CRS on 04.10.2006)
Ex.W3	10.12.2006	Confession letter by Sri D. Elangovan, then Asstt. Branch Manager of Arni Branch regarding fraudulent transactions in Govt. Pension accounts in Arni Branch
Ex.W4	10.12.2006	Letter from Sri D. Elangovan giving undertaking to make the good the loss due to his misappropriation in pension accounts
Ex.W5	10.12.2006	Letter from Sri D. Elangovan with a promissory note for Rs. 22,00,000/- executed in favour of Indian Bank for the loss
Ex.W6	23.01.2007	Vigilance Investigation Report submitted by Sri Selvam, AM Circle Office, Vellore to Circle Head, Indian Bank, Vellore regarding irregularities/fraudulent transactions done by Mr. D. Elangovan, Asstt. Manager (relieved under CRS on 04.10.2006 at Arni Branch

Ex.W7	05.05.2008	Show Cause Notice CO/VLR/VIG/F311/203/08 to Sri V. Balakrishnan issued by Indian Bank, Circle Office, Vellore	12.02.2009 on charge sheet dated 29.07.2008
Ex.W8	06.06.2008	Reply by Sri V. Balakrishnan to the above Show Cause Notice	Ex.M9 12.03.2009 Comments of Balakrishnan on the findings of the Enquiry Officer
Ex.W9	17.11.2008	Presenting Officer's summing up report	Ex.M10 15.04.2009 Second Show Cause Notice issued to Balakrishnan – proposing punishment and offering personal hearing
Ex.W10	22.12.2008	Defense Representative's summing up report	Ex.M11 20.04.2009 Proceedings of personal hearing on 20.04.2009
Ex.W11	11.03.2010	Orders of Appellate Authority HRM/DPC/671/2009-10 dated 11.03.2013	Ex.M12 22.04.2009 Order of Disciplinary Authority
Ex.W12	27.09.2010	IBEA/GEN/19/2010-13 dated 27.09.10 – Letter from the Union to ALC, Chennai raising an Industrial Dispute	Ex.M13 28.05.2009 Appeal of Balakrishnan
Ex.W13	24.10.2014	Reply letter by IBEA (TN) to Indian Bank, Zonal Office letter dated 28.02.2011	Ex.M14 28.02.2011 Counter Statement of Respondent Bank filed before ALC ©, Chennai.

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 301.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मीठे पानी में जलीय कृषि के केन्द्रीय संस्थान के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 25/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/02/2015 को प्राप्त हुआ था।

[सं. एल-42025/3/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 13th February, 2015

**S.O. 301.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 25/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Central Institute of Freshwater Aquaculture and their workmen, which was received by the Central Government on 12/02/2015.

[No. L-42025/3/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

**Present :** Shri Pradeep Kumar, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

**INDUSTRIAL DISPUTE MISC. CASE NO. 25/2014**

Date of Passing Order – 29th day of January, 2015

#### On the Management's side

Ex.No.	Date	Description
Ex.M1	-	Know Your Customer – KYC guidelines extract of manual – 2006 – at page nos. 1.1, 1.2 and 1.3 – clause 2.4.1 to 2.4.5 and 2.5
Ex.M2	-	Extract – Procedure how to debit a transaction by ledger workman at pages 4.19, 4.20, 4.21, 4.22 and 4.23 – at clauses 18 to 23
Ex.M3	-	Extract – operational guidelines of low income groups – pages 1.18 and 1.19 – clause 15
Ex.M4	-	Procedure for inoperative and scarcely operated account – page 4.45 – clause no. 35
Ex.M5	-	Extract – Managers manual 2006 – page nos. 292 & 293 – Risk Based Management
Ex.M6	29.07.2008	Charge Sheet issued to V. Balakrishnan CO/VLR/VIG/F311/368/2008 by Bank
Ex.M7	17.09.2008 14.10.2008	Proceedings of enquiry on the charge sheet dated 29.07.2008
Ex.M8	31.01.2009	Findings of Enquiry Officer – under cover of letter of DA dated



**Between :**

Shri Sarat Chandra Khuntia,  
S/o Batakrushna Khuntia,  
General Secretary,  
Central Fisheries Research  
Employees Association,  
Kausalyaganga, Bhubaneswar  
Odisha

...Applicant

**(And)**

The Director,  
Central Institute of Freshwater Aquaculture,  
Kausalyaganga, Bhubaneswar-2 ...Opposite Party

**Appearances:**

1. Shri S. C. Khuntia ... For the applicant himself
2. Shri Indramani Muduli ... For the Opp. Party  
Asst. Administrative Officer

**ORDER**

This Misc. Case is filed by the applicant under Section 33-A of the Industrial Dispute Act, 1947 alleging therewith that the opposite party management have done illegality in imposing upon him the punishment of compulsory retirement during pendency of one ID Case No. 9 of 2009 before the Tribunal involving the applicant.

2. The matter is registered as Misc. Case and necessary judicial proceedings were undertaken as per law. The date is fixed for recording of evidence from the side of the applicant. On perusal of the record, it is found that the original case bearing ID Case No. 9 of 2009 has already been disposed with the passing of award with an observation that the matter as referred to this Tribunal by the Government for adjudication vide their order No. L-42011/4/2006 -IR(DU), dated 13.02.2009 cannot be adjudicated as the same is not coming within meaning of Section 2(k) as an Industrial Dispute under the Industrial Disputes Act, 1947. Accordingly, the reference was returned to the Ministry unanswered.

3. Since, the matter of ID Case No. 9 of 2009 was not an industrial dispute as defined in Section 2(k) of the Industrial Disputes Act, 1947, the opposite party management has rightly taken the decision of imposing the punishment of compulsory retirement in the light of the findings of the Disciplinary Proceedings conducted against the applicant. Thus, the Opposite Party Management has not done any illegality on it's action against the applicant as alleged by the applicant.

4. In view of the above observations, the Misc. Case is dismissed as not maintainable.

PRADEEP KUMAR, Presiding Officer

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 302.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक नोट प्रैस देवास के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/82/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/02/2015 को प्राप्त हुआ था।

[सं. एल-16011/3/84-डी-II (बी)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 13th February, 2015

**S.O. 302.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/82/92) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bank Note Press, Dewas and their workmen, which was received by the Central Government on 12/02/2015.

[No.L-16011/3/84-D-II(B)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/82/92**

General Secretary,  
Bank Note Mundranalaya  
Shramik Sangh,  
Bank Note Press,  
Dewas (MP)

General Secretary,  
Bank Note Press Control  
Staff Association,  
Dewas (MP) ...Workman/Union

**Versus**

General Manager,  
Bank Note Press,  
Dewas (MP) ...Management

**AWARD**

Passed on this 4th day of December, 2014

1. As per letter dated 1-5-92 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-16011/3/84-D-II(B). The dispute under reference relates to:

“Whether the demand of workmen represented by the Bank Note Press Control Staff Association of the Bank Note Press, Dewas for grant of incentive bonus @ Rs.100% like unclassified workers is justified? If so, to what relief the workmen are entitled and from which date?”

2. After receiving reference, notices were issued to the parties. Ist party Bank Note Press Control Staff Association, Dewas submitted statement of claim at Page 7/1 to 7/11. Case of Ist party workman is that dispute relates to grant of incentive to Inspectors Control, assistant Inspectors control. Dy. Technical Officers, Dy. Works Engineers, Store Keepers, Assistant Store Keepers, Canteen Manager and Canteen supervisor. That Bank Note Press Dewas is a factory registered under Factory Act. It is engaged mainly in printing of Bank Notes, these Notes are supplied to RBI. It is doing commercial business and earning profits. And declared as commercial undertaking.

3. For purpose of printing and processing, there are various sections such as control, printing, stores, workshop, Ink Factory, canteen and office etc. the employees are required to work overtime to meet the rising demand of the Reserve Bank of India. That for purpose of production, each department is complimentary to each other and the total contribution of all the employees results in production. The workman in the factory contribute to the totality of the production. To achieve more production, Group Incentive scheme was introduced from 1-9-77. It was amended time to time. Para-3 of the scheme covers all Industrial and such classified staff upto the level of Inspectors, Dy.Technical officers, Dy.Works Engineers, Store Keepers and Canteen Manager . Para 4(5) of the said scheme classifies Inspector Controls, Assistant Inspector control, Dy.Technical Officers, Dy.Works Engineers, Store keepers, Assistant Store Keepers, canteen Managers as supervisors. The distinction between worker to worker in the factor on the basis of classified and unclassified is unjustified. The classified workers of shop floor of the factory were separated from other unclassified workers by incentive scheme. The incentive was fixed 50% to classified works of the unclassified workers. It was revised to 76 % in 1983. That contribution to the provision of classified workers is equal to unclassified workers. Unclassified workers were paid 100 % incentive. Ist party workmen has exhaustively given duties of Junior Checker ( Machine Checker) posted on intaglio machine. He has to accompany lots of sheets twice a day duly counted by other workers , from the vault to the machine and vice-versa. Till paper is in running condition on machine, he has to be on machine or with the paper. His main duty is to be present on machine all time till machine is in running condition as Security Paper is there. The duties of Cage Checker are to deposit or issue lots of sheets to or from the vault of his posting, (ii) to keep records of all the sheets put in his vault, (iii) to supervise the work of other

workers put in his vault, (iv) to be present all the time till his vault is open. Duties of Cage Checker has been classified as direct worker of control under incentive scheme whereas I.C/A.I.C are classified as supervisors. Duties of Sr.Checker are to act as a link between other checker on same tables, to have watch on working of on his set only and to be responsible for the entire set to his superiors. It is purely a supervisor job classified as direct worker. Para 4(b)(i) of the Group Incentive Scheme effective from 1-9-77. Sr. Checker is getting full incentive.

4. The duty of Head checker is to take muster of all employees working in a section. Besides above, he has to perform other duties to attend cutting of Rs.100/- in Guillotine Section, to attend search of trimmings of sheets in F.E.I to attend partly bad exam in F.E.II or F.E.IV to attend counting of sheets in pre-conditioning, to attend counting of spoiled and punched notes etc. the duties of Junior checker are about adjustment of work allotted to others on his table, to attend counting of sheets by removal methods, to keep records of work done by others etc. the duties of I.C/A.I.C are just similar to junior checker posted on machine or on table, senior checker posted on table, Cage checker and Head Checker. He has to be present all the times inside the section till section is open like the junior checker on machine or like cage checker.I.C/A.I.C are also eligible to get full benefit at par with the workers. I.C/A.I.C are said to be direct workers. Indirect works means workers in service department such as work shop, timeoffice and stores. IC/AIC cannot be deemed to be indirect workers. That functions of control department include storing of notes in strong room, packing of notes in the form of bundles, dispatch of notes to various RBI centres, keeping of records properly for security and safety of notes, and reconciliation. There are some of the very important jobs in control, IC/AIC perform all the above jobs manually. The duties of IC/AIC are to pickup keys to open sectional door, top operate vault keys now and then, to check physically the whole section by going round the machine and/ or tables etc. to check both the numbers of each note of every first sheet at the time of change of run or change of denomination on numerota machines. The clerical work relates to day to day accounts of sheets/ notes. To process leave and allied applications. To keep records of various day to day works, to write various gate passes for movement of men/material etc. the supervisory work is to check various registers, maintained by other workers, to attend cutting of Rs.100/-, to attend search of boxes, to attend arranging of bundles , to attend weighment of packed cases.

5. It is submitted that classified canteen workers were kept in indirect category and 25 % incentive was paid to them. Later on canteen workers converted from classified to unclassified by Govt. 100 % incentive paid to them. The classified category was also not covered by Factory Act for payment of overtime allowance. As per award passed

in Case No. C/135/85 & 158/85 by this Tribunal and confirmed by High court and Supreme Court overtime allowance was paid to unclassified workers also.

6. Ist party further submits that Inspector Control, Dy. Technical Officer, Store Officer, Dy. Works Engineers were paid OTA as per section 59 of Factories Act. That as a result of Incentive Scheme production is increase. The increased production generated more physical work and mental labour. It was due to the method and system of working and actual process of production. Management is paying 100 % incentive to workers who are on Casual Leave, go out of factory for purchasing, going on tour even who are time officer, canteen staff. 100 % incentive allowance is also paid to operator of an automatic, electronic and computerized machine. 100 % incentive is paid to Head checker, Table checker, Sr. Checker, Jr. checker posted on machine. When they are directly denying incentive allowance to IC/AIC.

7. It is submitted that in security Paper Mill Hoshangabad, the incentive is paid at Identical rates to every employee. There is no differentiation adopted in SPM for paying incentive to different class of employees the duty hours and service conditions of employees working in Bank Note Press Dewas and SPM are identical. Only different formulas are adopted in both the concerns so far as the payment of incentive is concerned. The criteria fixed for calculation of payment of incentive is not at all justified just because of the designation of any post. On such ground, Ist party prays that management of IInd party be directed to pay 100 % incentive bonus from 1977 to all categories of workers who are paid 76 % incentive allowance.

8. IInd party submitted Written Statement at 10/1 to 10/18 opposing claim of Ist party. IInd party submits that Bank Note Press is a departmental undertaking controlled by Ministry of Finance, Deptt. Of Economic Affairs and is engaged in printing of Bank Notes of Rs.50, 100 & 500/- denominations supplied to RBI. The Press has different wings such as Printing, control, platemaking, stores, workshop, ink factory etc. with a view to increase the production of notes, the Press started working one hour extra w.e.f. 14-3-75 and purely adhoc incentive scheme was introduced. The rate of remuneration was payable at different rates from Rs.30 to 70 to the industrial workers and @ 10 % of their emoluments to the supervisory staff and Class IV of shopfloor and for staff @ 5 % of their emoluments. The officers were paid upto Rs.1100-1600 honorarium of 10 % of pay limited to Rs.100/- per month.

9. Before introducing the said scheme, a study team M/s. IBCON Pvt. Ltd. was engaged to carry out the work study and formulate a group Incentive Scheme vide Govt of India, Ministry of finance order dated 30-6-75. The report was submitted in January 1976. The govt. accepted their

recommendations to the extent and subject to the conditions laid down in order dated 29-8-77 of Defence Ministry. The scheme was implemented from 1-9-77. It was effectively implemented from January 78 after its acceptance by two Unions- Bank Note Press Karmchari sangh and Bank Note Press karmchari Parishad. The scheme was to boost the existing level of production and to help the workers to earn additional monetary benefits and to decrease absenteeism amongst the workers. To meet further demand of the notes, the Press started working 3 hours overtime in two shifts.

10. It is submitted that scheme is primarily meant for industrial employees and for supervisory staff who are observing the same working hours and holidays as in Factory and whose presence is necessary for efficient working of the industrial employees. the scheme doesnot cover the officers, office staff and the staff engaged in Estate, Dispensary and Canteen. Subsequently on repeated representations, the above categories of staff and officers are also included under the Scheme for getting incentive 25 % subject to terms and conditions laid down in amendment dated 1-2-83. The officers are getting special allowance in lieu of incentive @ Rs. 300 to the shop officers and Rs.200 to the other officers. Group Incentive Scheme has categorized the eligibility. That Direct Industrial Workers of the Printing, control departments and Ink Factory, essential indirect workers of the workshop, stores, supervisory staff on the shopfloor, non-essential indirect workers of the dispensary, hospital, estate and office, officers whose wages donot exceed Rs. 1600/- per month. The admissibility of rates of incentive to the supervisory staff in Printing, Control, Ink factory workshop and stores upto the level of store keeper is 76 % of the rate of incentive earned by the Industrial workers of the respective departments.

11. It is submitted that subsequently canteen employees are brought within the purview of Incentive scheme in as much as provisions of canteen facility is statutory requirement under the Factories Act and Canteen employees are catering to the needs of factory and their area of function covers throughout the factory. The canteen employees have also been declared as essential indirect workers for the purpose of incentive scheme as per order dated 5-3-87 & 17-5-88 of Ministry of Finance. It is submitted that M/S IBCON conducted study for implementing the Group Incentive Scheme. The scheme itself provides categorization at different levels for getting incentive according to the contribution of each category of employees. The duties and responsibilities of the petitioners are mainly of supervisory nature. They recommend leave, hold charge of the section, initiate disciplinary action against the employees, arrange to issue gate passes, a discipline, to keep the section clean and tidy, to allot the work of his subordinates to write the

confidential reports of the workers etc. These duties cannot be compared with the workers who perform their work manually and directly involved in production. That Ist party workers tried to compare with the Incentive scheme prevailing in SPM, Hoshangabad. That both the units are entirely different and cannot be compared with each other. SPM is engaged in manufacturing of paper, Bank Note Press, Dewas is engaged in printing of bank notes. The incentive scheme applicable to both the units are entirely different and cannot be compared with each other. That in judgment passed by Honble CAT, Jabalpur in Case No. TA 116/86 dated 13-2-91 disallowed claim of incentive to the officers of BNP, Dewas at par with workman irrespective of offices working in shop floor etc. it is submitted that it was held that in all Public Sector undertakings under the Central Govt., there is a cut off pay limit in regard to the officers, supervisory staff, non-gazetted supervisory staff.

12. IInd party submits that in its statement of claim, Ist party has referred to demand for 100 % incentive bonus to its member who are employees of BNP is not as per terms if reference made by Govt. the terms of reference relates to the demand for grant of incentive bonus 100 % like unclassified workers is justified. IInd party denies that Bank Note Press is engaged in commercial activities. That profit is not object of BNP. IInd party is engaged in sovereign functions of printing notes. The object of Press is very specific and not like other commercial departments earning profits in open market. It is admitted that for meeting demands of the notes, the Press is working on overtime basis and the workmen engaged in production are paid extra wages as per Factory Act. Ist party workers are included in Para 6(a)(3) of the Group Incentive scheme under the supervisory staff on the shopfloor and they are entitled for 76 % of the rate of incentive earned by industrial workmen of respective departments. It is submitted that classification of workman supervisory staff, officers and office staff is carefully done at the time of creation of the posts in the organization according to the nature of work performed by them. Incentive scheme was studied by team of M/s. IBCON and recommended Group Incentive scheme. It was accepted by Govt. and implemented from 1-9-77. That initially Govt. accepted payment of 50 % incentive to supervisory staff. From 11-12-83, it was increased to 76 %.

13. IInd party submits that there are 297 junior checkers posted at various sections covered under Group Insurance scheme as direct workers. Ist party workman are covered under the Group Incentive Scheme as direct workers whereas the petitioners are all supervisors whose nature of duties are entirely different to that of Junior checkers. Hence there cannot be any scope for comparison with the junior checkers. That the workmen are trying to mislead the Hon'ble Tribunal by detailing the duties of Senior checker who are unclassified industrial workers treated as direct workers for the purpose of incentive under Group

Incentive scheme. There are about 73 senior checkers in control department and they are posted in different sections. The workmen are trying to mislead the Tribunal by comparing the duties of Head checkers with the workmen. There are 26 Head checkers performing duties in different sections and the post of Head Checker being the highest in the cadre of unclassified industrial workers, they have to take care of all duties in guiding the workers and assisting the Assistant Inspectors(Control)/Inspectors(Control). In Group Incentive scheme, the Head Checkers who are unclassified industrial workers are treated as direct workers for the purpose of incentive scheme. In Group Incentive Scheme studied by expert body i.e. IBCON, the junior checkers have been correctly included as direct workers looking to their nature of duties. There are different categories decided for purpose of incentive for example the Gazetted Officers were not included in the Group Incentive Scheme. Subsequently they were included and getting Rs. 300/- to shop floor and Rs. 200/- to other officers by way of special allowance. The IC/AIC who are supervising industrial workers cannot be equated with the workers as the duties of the Inspectors (control) and Assistant Inspectors (Control) are to supervise and extracting the work from them. In the said scheme, the supervisors are allowed 76 % of the incentive earned by the workers of respective sections and officers who are doing the supervision and managerial functions are at present getting fixed amount of Rs.300 to shopfloor Gazetted Officers and Rs.200 to other officers whose total emoluments exceeds Rs. 2500 w.e.f. 1-10-86.. the office staff, dispensary and Estate staff who are not connected with the production have also been excluded though based on various representations, the Govt. have considered 25% of the weighted average of the rate of incentive of direct workers of the Printing and Control Departments and Ink Factory. The rate of incentive payment is fixed 76%. That in each and every section of the Press though there are supervisors but their duties are different according to the nature of work and therefore the duties of the other sections cannot be compared with other sections. The canteen workers were previously in Group D category and accordingly were treated as non-essential indirect workers and thus paid 25% of the direct workers as of office staff. Considering nature of work of the canteen, the Govt. of India vide letter dated 13-11-86 have re-categorised the canteen employees as industrial workers and accordingly for the purpose of incentive scheme these employees were treated at par with other industrial workers and were included as Essential Indirect workers. All other contentions of Ist party workmen are denied by IInd party as misleading. The CGIT order followed by judgment of High Court was only for overtime allowance at double the rate and not under Section 59 of Factories Act. That for each category of workers, staff, different duties and responsibilities are attached and only when they perform their respective duties and responsibilities is, the targeted



production can be achieved for which wages, overtime and incentive is paid according to the Group Incentive Scheme. The payment of incentive on Casual Leave and to time office staff is in accordance with the Incentive scheme accepted by the two Unions. That SPM Hoshangabad is a separate unit for manufacturing process. Bank Note Press prints Bank notes. Said position was upheld in TA/116/86 by CAT Jabalpur. On all such contentions, IInd party prays that reference be answered in favour of management.

14. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |   |                      |
|---|----------------------|
| (i) Whether the demand of workmen represented by the Bank Note Press Control Staff Association of the Bank Note Press, Dewas for grant of incentive bonus @ Rs.100% like unclassified workers is justified. | In Affirmative       |
| (ii) If yes, to what relief the workman is entitled to?"  | As per final orders. |

#### REASONS

15. The terms of reference pertains to demand of Bank Note Press Control Staff Association of BNP for grant of incentive bonus 100 % like unclassified workman. The list of workmen is not received along with order of reference. If affidavit of evidence of Shri A.B.Malviya, names of the workers are given IC Sl.No.1 to 37, AIC- Sl.No. 1 to 14, DTOs 41 to 61, Jr. Artist- Sl.No.62. DTO- 63 to 71, storekeeper Sl.No.72, ASK Sl.No.73, 74, Canteen manager, Canteen Supervisor 75, 76, DWE 77 to 92, DTO 93 to 94 and ASK DWE, BIK, BWE, DTO- 76 to 101. The workmen working at DTO Junior Artist Store keeper, canteen supervisor, BWE, ASK, BIK, DTO appears not employees working in control section. The Ist party union also filed affidavit of witness Shri P.K.Srinivasan giving name of all those workers appears beyond the terms of reference. The affidavit of evidence filed by both the witnesses have narrated in detail about duties of junior checker. Inspector Control, Assistant Inspector Control, manual duties, clerical work, supervisory work, comparing the duties with junior checker etc. In his cross-examination, Shri A.B.Malviya says Group Incentive Scheme is implemented from 1-9-77. Said scheme was implemented as per recommendations/report submitted by M/S IBCON. As per said scheme, workers were classified in different categories as per their duties. Documents R-9 to 15 & 16 were produced on request of the Union. This witness says his duties are to write CRs, preparing gate passes on the applications. When he enters the factory, his personal search is not carried. His evidence about the duties of IC/AIC, Jr. checkers and other categories of employees. Shri P.K.Srivastava in his

cross-examination says BNP has service manual. It was not shown to the workers. He never demanded Bank Note Press service Manual. He had not raised any objection to the service manual. It was not shown to the workers. He never demanded BNP Service Manual. He had not raised any objection to the service manual. In Para-11 of his affidavit, distribution of duties written by him as per his experience. He denies that his affidavit of evidence is prepared by his Advocate and he only signed on it. He admits that SPM Hoshangabad and BNP Dewas are different establishment. That supervisor is not working on machine. The workers are working under him.

16. Documents produced with list Page 14 related to duties. The responsibilities of Head Checkers, Cage Checkers, Sr. Checkers Grade I, Sr. Checker Grade II, Jur. Checkers on machine duties of examiners duties of counters are produced.

17. To be precise, introduction of Group Incentive scheme from 1-9-77 is not in dispute. Copy of the scheme is produced at Page 10.24 to 10/31. In para 6(a) of Group Incentive Scheme as categorized direct workers incentive for control department was prescribed 60 %, 40 %, 60 % of basic pay. The workers in essential direct workers workshop incentive is prescribed 80 % for supervisory staff 50 % etc. in cross-examination of the witness of Ist party, no question is asked to the witness with regard to the incentive prescribed under Group Incentive Scheme.

18. IInd party filed affidavit of evidence Shri S.k.Mathur and T.Ankey. they were not produced for cross-examination. Management's witness Shri D.L.Damor filed affidavit of his evidence supporting whole contentions of IInd party, he was also not produced for cross-examination. Shri H.S.Kalota supported contentions of management in affidavit of his evidence justified payment of incentive at different rates considering categorization of the workers. The witness of the management in his cross-examination says that his affidavit is prepared as per his present information. The contents of Para 5,11,13,15 are based on record. he had seen Group Incentive Scheme. In 1977, there was a settlement with the Unions. He had seen that settlement. Sais settlement was arrived for increase in production. The documents he saw are not produced on record. he had not participated in settlement of 1977. After said settlement, there were amendments time to time. He did not recollect the dates of amendments. He claims ignorance whether those amendments were produced on record. he joined service on 2-2-1980 as Junior Machine Assistant. He received benefit of incentive scheme till 1994. In December 1994, after selection by UPSC, he joined Class I post. Thereafter he was not receiving incentive. Before preparing his affidavit, he had not seen statement of claim or Written Statement filed by the parties. That BNP is commercial based because RBI values the note. He was unable to tell whether the Press was working profit and loss.

19. In his further cross-examination, management's witness says he knows the employees working in different sections. The employees concerned with the dispute are working in workshop, printing control. Workmen are categorized as direct, indirect employees supervising the work. The production involves team work of all sections. The Inspector Dy. Technical Officer, Dy. Works Engineer, store keeper, Canteen Manager treated as indirect workers. He also agrees that indirect workers are not working. The witness had denied that there is fix quota of work of junior checker. He had also denied that duties of junior checker, IC/AIC are similar.

20. Management's witness Shri K.K.Pandit filed affidavit of his evidence giving details of working in BNP involves various process that to boost production and to help workers on Additional Monetary benefits Group Incentive Scheme was introduced from 1-9-77. He has carefully gone through the files related to claim of Ist party for incentive payment. He had also gone through the contents of Written Statement of IInd party. That CGIT Hyderabad in Award dated 28-12-98 in Case No. 35/96 held Group C staff are not workman. Above witness of management Shri K.K.Pandit has denied claim of Ist party workers for 100 % incentive under Group Incentive Scheme.

21. In his cross-examination, Shri K.K.Pandit says he did not work in factory at any time. All the time he was working in administrative office. Para 1 to 4 of his affidavit are based on personal knowledge, rest on office record. the documents referred in his affidavit are produced along with Written Statement. That categorization of employees direct, essential, indirect, non-essential was made as per report of IBCON Committee as to time, motion of machines. He admits that there was no participants of workman in study report. Employees working in office were not referred to IBCON Committee. However working in administrative office upto supervisor are getting benefits of Group Incentive Scheme. He was getting benefit of Group Incentive Scheme. He was getting till he was working in surplus category. In para 17 of his cross, the witness says canteen employees were in non-essential indirect staff and getting benefit of incentive scheme from 1986 onwards. He was unable to tell its exact percentage of incentive paid to them. The staff working in dispensary are covered in non-essential individual category. They are getting benefit of incentive from 1986 onwards. Witness was unable to tell the exact percentage. The staff working in said office are covered in non-essential indirect category. They are getting benefit of incentive 25 % from 1982. Staff working in print control covered in essential direct category are getting 100 % incentive. Staff getting in workshop, store are covered in essential indirect category are getting 80 % incentive. Witness admits reference 69/90 filed by the association. The award was passed by this Tribunal. Said award was confirmed by High Court and Supreme Court. He admits that target provisions can be achieved if staff

work properly. He denies that they are getting in indirect category. Witness admits unclassified staff were paid 50 % incentive. It was increased to 76 % in 1983. The witness denies that for purpose of production, non-classified staff are similar. Duties of supervisor staff are given in Para 11 of affidavit of Shri P.K.Srivastava are correct. They are not doing manual work. The witness also did not agree that unclassified workers are kept in direct category workers. Factory Act applies to Bank Note Press. Employees availing CL are paid 100 % incentive. Checker, Sr. Checker were direct workers. He denies that IC/AIC are paid 100 % incentive. All supervisory staff are paid 75 % incentive. Copy of award in R/67/89 is produced at Exhibit W-1.

22. The reference in said award was whether the demand of workman working in BNP Dewas and represented by Bank Note Mudranayala Shramik Sangh and Bank Note Press office staff association for grant of incentive to office canteen, dispensary and staff under Group Incentive Scheme at par with retrospective effect from 1-9-77 is effective. The reference was answered in favour of the Union. Para-16 of the award finds- Union had proved that there is arbitrary discrimination in respect of payment of bonus to employees working in office in dispensary and canteen. Management could not justify the non-payment of bonus from section to staff on 1-1-78. Award is given in favour of Union. The employees of BNP working in office dispensary, staff canteen to the full benefit of Group Incentive Scheme annexure A from 1-1-78 onwards. All the arrears be paid to staff in 3 months from time of publication of award. It is clear from award that the employees working in office, dispensary and canteen were allowed full benefit of incentive observing that the management had discriminated them and said award was challenged by management filing Writ petition 111/00. His Lordship whole judgment dated 20-6-05 decided the matter. In para-21 of the judgment, his Lordship reproduced ratio in case of Union of India versus Chaju Ram reported in 2003(5) 568- "it is now well settled that a decision is an authority for what it decides and not what can logically be deducted there from. It is equally well settled that a little difference in facts or additional facts may lead to a different conclusion." In Para 22 of the judgment their Lordship held that the employees represented by Union working in Estate, office staff and dispensary would be entitled to the incentive bonus at par with canteen employees and from the same date w.e.f. 1-11-86 and not from the initial date of introduction of scheme. Said judgment was challenged filing Writ Appeal No. 24/06 by Bank Note press Staff Association. Said writ appeal was decided by Lordship of the Division Bench. Their Lordship held we are inclined to grant interest at the rate of 6 % per annum for a period of three years on the accrued incentive bonus as that would sub serve the cause of justice. To be precise, the award was maintained in Writ Petition and in writ

appeal. The matter was also challenged by Special Leave appeal which was dismissed by the Apex Court vide judgment dated 17-2-90.

23. As per judgment in R/67/89, the employees working in state office, canteen etc are allowed full incentive allowance working in those section were illegally discriminated. The evidence discussed above shows that IC/AIC are performing duties of supervisory working to the workman involved in production. Their claim for incentive allowance equal to the workers involved in production appears well founded. Those employees cannot be discriminated.

24. Learned counsel for IInd party Shri Salunke submitted written notes of arguments emphasizing that the incentive scheme was introduced after study report submitted by IBCON that the employees were categorized considering nature of duties. In support of his argument, counsel for IInd party relies on ratio held in

“Case of MP rural Agriculture Extension Officers Association versus State of MP and another reported in 2004STPL(LE)33162 SC. In Para 15, their Lordship observed Article 14 forbids class legislation but permits reasonable classification subject to the conditions that it is based on an intelligible differential and that the differentia must have a rational relation to the object sought to be achieved.”

Ratio cannot be applied to present case as award passed in R/67/89 Exhibit W-1 was allowing full incentive allowance to employees has been confirmed.

25. Management's witness Shri k.K.pandit in his cross-examination says that employees of BNP were not involved in study report submitted. Further reliance is placed on ratio held in

Case of FCI and others versus Bhartiya Khadya Nigam Karmchari Sangh reported in 2012STPL (LE) 46064 SC their Lordship held the classification adopted by the FCI is between an employee obtaining a higher qualification after joining service and an employee who already possess such qualification before joining the service. As aforesaid, the main purpose of this classification is to grant an incentive to the employees already in service in FCI to motivate them to acquire higher qualifications for their own benefits.

The facts are not comparable to the present case and the ratio cannot be applied to present case.

Next reliance is placed on State of Kerala and another versus Naveena Prabhu and others reported in 2009STPL(LE)41630. Their Lordship dealing with judicial review of policy decision by State Govt. with regard to introduction of direct payment system to the staff of Medical college and excluding the

staff of the hospital attached to the college not challenged by staff of hospital.

The facts of present case are not comparable with facts of above cited case. The ratio cannot be applied. For the same reasons, ratio held in case of Ekta Shakti foundation versus Govt. of NCT of Delhi cannot be applied to case at hand.

26. In view of award in R/67/89 Exhibit W-1 is confirmed and 6 % interest is also awarded on the amount of incentive claimed by employees in office staff canteen etc. I find no reason to take different view. For above reasons, I record my finding in Point No.1 in Affirmative.

27. In the result, award is passed as under:-

- (1) The demand of workmen represented by the Bank Note Press Control Staff Association of the Bank Note Press, Dewas for grant of incentive bonus @ Rs.100% like unclassified workers is proper and legal only for IC, AIC control staff.
- (2) The employees working in control section of BNP IC/AIC shown at Sl.No. 1 to 37 and 1 to 40 in affidavit of witness A.B.Malviya are entitled to 100% incentive from date of order of reference i.e. 1-5-92 and allowance as per Group Incentive Scheme. Claim of other employees shown in his affidavit is beyond the terms of reference hence rejected.

IInd party is directed to pay the amount of incentive allowance to those employees within 30 days from the date of publication of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 303.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार श्री रंगविलास जिनिंग स्पिनिंग एवं वीविंग मिल्स, कोइम्बटोर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 49 एवं 50/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/02/2015 को प्राप्त हुआ था।

[सं. एल-42011/211/2012-आईआर (डीयू),

सं. एल-42011/212/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 13th February, 2015

**S.O. 303.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 49 & 50/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure

in the Industrial Dispute between the employers in relation to the management of the Sri Rangavilas Ginning Spinning and Weaving Mills, Coimbatore and their workmen, which was received by the Central Government on 12/02/2015.

[No. L-42011/211/2012-IR(DU),

No. L-42011/212/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT, CHENNAI

Friday, the 23rd January, 2015

**Present :** K.P. PRASANNA KUMARI,  
Presiding Officer

#### Industrial Dispute No. 49 and 50/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10

of the Industrial Disputes Act, 1947(14 of 1947), between the Managements of Sri Rangavilas Ginning Spinning and Weaving Mills and their workman)

#### BETWEEN

The Secretary : 1st Party/Petitioner Union  
Coimbatore Erode  
District Dravida Panchalai  
Thozhilalar Munnetra  
Sangam (MLF)  
V.K.K. Menon Road  
Sidhdhapudur  
Coimbatore-641044

#### AND

Sri Rangavilas Ginning : 2nd Party/Respondent  
Spinning & Weaving Mills  
333, Avinashi Road,  
PO Box No. 1604  
Peelamedu (Post)  
Coimbatore-4

S. No.	I.D. No.	Reference No. & Date	Name of the I Party S/Sri	Name of the II Party	Appearance for Workman	Appearance for Respondent
1.	49/2013	L-42011/211/2012-IR (DU) dated 15.04.2013	The Secretary, Coimbatore Erode District Dravida Panchalai Thozhilalar Munnetra Sangam (MLF), VKK Menon Road, Sidhdhapudur, Coimbatore-641044	M/s Rangavilas Ginning Spinning and Weaving Mills, 333, Avinashi Road, PO Box No. 1604, Peelamedu (Post), Coimbatore-4	M/s Ramapriya Gopalakrishnan	M/s T.S. Gopalan & Co.
2.	50/2013	L-42011/212/2012-IR (DU) dated 15.04.2013	The Secretary, Coimbatore Erode District Dravida Panchalai Thozhilalar Munnetra Sangam (MLF), VKK Menon Road, Sidhdhapudur, Coimbatore-641044	M/s Rangavilas Ginning Spinning and Weaving Mills, 333, Avinashi Road, PO Box No. 1604, Peelamedu (Post), Coimbatore-4	M/s Ramapriya Gopalakrishnan	M/s T.S. Gopalan & Co.

#### COMMON AWARD

The Central Government, Ministry of Labour & Employment vide the above order of references referred the IDs to this Tribunal for adjudication.

2. The schedule mentioned in the orders of reference in the above IDs are as under:

#### ID 49/2013

“Whether the action of the management of Sri Rangavilas Ginning Spinning and Weaving Mills, Coimbatore in respect of not holding discussions with petitioner unions viz. MLF, AITUC, ATP, HMS

and BMS for workload settlement is justified or not? To what relief the petitioners unions are entitled to?”

#### ID 50/2013

“Whether the action of the management of Sri Rangavilas Ginning Spinning and Weaving Mills, Coimbatore in respect of not holding discussions with petitioners unions viz. MLF, AITUC, ATP, HMS and BMS for engaging workman workers during third shift and introducing Contract Labour System in the permanent vacancies is justified or not? To what relief the petitioners union are entitled to?”

3. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 49 and 50 of 2013 and issued notice



to both sides. Both sides entered appearance through their counsel and filed Claim and Counter Statement respectively.

4. Though there are several petitioners in the order of reference only one of them filed Claim Statement in both IDs.

5. The averments in the Claim Statement in ID 49/2013 are as below:

The Petitioner Union has large membership of Textile Workers in Coimbatore District. Earlier the textile mills in Coimbatore were mainly owned by private employers. They were taken over by the National Textile Corporation after they have become sick due to mismanagement. The Respondent is one of the Mills taken over by the National Textile Corporation. The issue of recognition of Trade Unions operating in the National Textile Corporation came up for consideration of the High Court of Madras in Writ Petition No. 1440/2010. The Hon'ble High Court ordered that recognition shall be decided through a secret ballot. It was further directed that the unions which secure minimum 10% votes in the secret ballot are to be recognized. The secret ballot was held on 18.12.2010 and the petitioner and other unions named in the order of reference collectively secured 40.99% of the votes in the Respondent Company. The petitioner has the second largest membership in the Company. The union by name LPF which has a membership of 160 workers in the Respondent institution was called for negotiation in respect of the workload issue. So also INTUC which has a membership of only 6 also was called for negotiation. However, the Petitioner Union which has a larger membership was not invited for discussion. As per the judgment of the High Court recognition is to be granted at the unit level and not at the industry level. If a Union has secured minimum 10% votes in a particular mill it should be granted recognition in that particular mill. On the other hand if a union has secured 10% of the overall votes but has not secured minimum 10% votes in a particular mill it should not be granted recognition in that mill where it has failed to secure minimum 10% votes. If recognition was granted at the unit level on the basis of the order of the High Court the petitioner should have been recognized and should have been called for discussion in respect of any issue concerning the workers of the Respondent institution. In fact, in the past, recognition has been accorded at the unit level all along. In 2011 recognition was accorded at the industry level or centralized level and not at the unit level. This is arbitrary and unjust. Based on the discussions with a minority unions like INTUC Union the Respondent Management entered into a settlement under Section-18(1) of the Industrial Disputes Act on 15.08.2012. That settlement is not binding on non-signatory unions. The settlement was subsequently taken up for conversion as a settlement under Section-12(3) of the Industrial Disputes

Act and such a settlement was entered on 04.09.2012. The settlement was brought before the conciliation Officer only for the purpose of converting it as settlement under Section-12(3) of the Act. The work load under settlement dated 04.09.2012 is very high. The workers are finding it difficult to meet the targets assigned to them to achieve the high workload. An order may be passed holding that the action of National Textile Mills Management, Southern Region in not inviting the petitioner for discussion in respect of workload settlement concerning the workers of the Respondent mill is unjustified and that the petitioner is entitled to reference of the dispute raised by it in respect of workload for adjudication.

6. The Respondent has filed Counter Statement contending as follows:

The Respondent is one of the 7 mills in Tamil Nadu under the control of Southern Regional Office, National Textile Corporation, Coimbatore. On 02.09.2010 the Madras High Court has disposed of Writ Petitions 1440 and 5030 of 2010 holding that existing 10% membership for selecting the negotiating unions form among the recognized unions can be maintained, but any union commanding more than 10% membership may be given one more representative for every 10% extra membership. It directed the National Textile Corporation, Southern Regional Office, to conduct an election covering all the 7 mills in Tamil Nadu. Election was held on 18.12.2010 and four unions viz. LPF, NDLF, CITU and INTUC secured more than 10% membership and they were to be bargaining agents of the workmen at the unit level and Regional level for the next three years. The Respondent had discussions with the above unions on the proposal for revision of work norms. An understanding was reached revising the work norms and minutes was prepared. However, some of the Unions declined to sign a settlement. On 15.08.2012 settlement was concluded with LPF and INTUC giving substantial monetary increase in consideration of the commitment of the workmen for higher norms. In order to make the settlement binding on all the workmen the Respondent sought the intervention of the Conciliation Officer. Subsequently, the settlement was converted into one under Section-12(3) of the ID Act. Five unions including the petitioner gave representation on 03.05.2012 stating that they were not invited for discussion before concluding the settlement. The Conciliation Officer has submitted failure report on this representation. The settlement dated 04.09.2012 have been fully implemented and the workmen have received the monetary benefit in terms of the settlement. So the dispute that was originally raised does not survive for consideration. If the unions are aggrieved by the settlement they should have challenged the terms of the settlement. The settlement has been working satisfactorily. The petitioner is not entitled to any relief.

7. The petitioner in ID 49/2013 is the petitioner in ID 50/2013 also. The Respondent also is the same. In this ID also it is claimed by the petitioner that in view of the order of the High Court it should have been invited for discussion in respect of the work load issue of engagement of temporary workers, issue of engagement of women workers in the third shift and bonus issue. The petitioner has claimed an award holding that the action of the Management in not holding discussion with the Petitioner Union in respect of the issue of engagement of women workers in the third shift and engagement of temporary workers against permanent vacancies is unjustified and to direct the Management to desist from such practice.

8. The Respondent has filed Counter Statement in ID 50/2013 in tune with the Counter Statement filed in ID 49/2013.

9. The issue arising for consideration in both the IDs being the same, the two IDs were tried jointly, treating ID 49/2013 as the main case. Evidence was recorded in ID 49/2013.

10. The evidence in the two cases consists of oral evidence of MW1 and documents marked as Ext.W1 to Ext.W15 and Ext.M1 to Ext.M24.

11. The points for consideration in the two cases are:

- (i) Whether the action of the Management in not holding discussion with the Petitioner Union is justified or not?
- (ii) What is the relief, if any to which the petitioner is entitled?

### The Points

12. In ID 49/2013 the schedule is whether the action of the Respondent in not holding discussion with the Petitioner Unions regarding workload settlements is justified or not. In ID 50/2013 the schedule of reference is whether the action of the Respondent in not holding discussion with the Petitioner Unions regarding engaging women workers during third shift and introducing contract labour system in permanent vacancies is justified or not. In the Claim Statements in both IDs the prayer is an extension of the order of reference. In 49/2013 the petitioner wants an award holding that the action of the National Textile Mills Management, Southern Region in not inviting the Petitioner Union for discussion in respect of workload settlement concerning the workers of the Respondent is unjustified and consequently to hold that the petitioner is entitled to reference of the dispute raised by it in respect of workload for adjudication. In ID 50/2013 the prayer in the Claim Statement is much more elaborate and extensive than what is given in the schedule of reference. The prayer is to pass an award that the action of the Respondent in holding discussion with Petitioner Union in respect of the issue of engagement of women

workers in the third shift and the engagement of temporary/non-regular workers against permanent vacancies is unjustified and consequently to hold that the Respondent's practice of engaging temporary/non-regular workers against permanent vacancies and of engaging women workers in the third shift are unjust and to direct the Management to desist from the said practice.

13. On a combined reading of the two orders of reference and the joint demands made by the five unions, it could be seen that the reference is not specifically pertaining to the demands made in Ext.M5 and Ext.M20. In Ext.M5 the letter given by the five unions to the ALC (C), the demand is to continue the existing settlement and to prevent the illegal move of the Management for new workload settlement with minority unions. Of course, there is the grievance that the Management is neglecting the majority workers and is negotiating with some minority unions. However, the relief claimed is not that the Respondent should be asked to have discussions with the Petitioner Union but to continue the existing settlement and to prevent the move of the Respondent for new workload settlement with minority unions. Thus the issue as could be seen from Ext.M5 is that the existing conditions regarding workload should be retained. However, when it comes to the order of reference the issue raised is something different. The National Textile Corporation Ltd. is not seen made a party to the Claim Statement even though the case of the petitioner is that the NTC Management, Southern Region did not invite them for any discussion. The National Textile Corporation has given a reply to the Asstt. Labour Commissioner stating that only four unions have been recognized in the referendum conducted as directed by the High Court and so they are not participating in the negotiation involving the Petitioner Unions. The copy of this reply is marked as Ext.M6. Similar letter is seen sent by the Respondent also and is marked as Ext.M7. It could be seen from Ext.M6 and Ex.M7 and also the orders of reference that both references have arisen from the same demands. In all these the numbers of the reference letters given are the same. From Ext.M20 it is seen that on 03.05.2012 the date of Ext.M12 another demand letter was also sent by the Petitioner Unions to the Labour Commissioner. The demands of the Petitioner Union are actually reflected in Ext.M20. In this it is stated that the Management has terminated the permanent employees under VRS, the Management has introduced contract system illegally and the vacancies are being filled by permanent employees and that the women workers who are asked to work in the third shift are to be permanently shifted to day shift. The prayers in the two Claim Statements seem to have been moulded on the basis of Ext.M20. Thus it could be seen that the terms of reference are somewhat different from the demands made.

14. The Coimbatore Regional Mill Labour Union had filed a Writ Petition before the High Court of Madras against the National Textile Corporation Ltd., Southern Region represented by its Chief General Manager and some unions. The members of the unions are employed in the mills under the National Textile Corporation. The petitioner is not a party to the Writ Petition. The Respondent also does not seem to be a party though it is one of the 7 mills coming under the National Textile Corporation Ltd. The High Court of Madras by order dated 02.09.2010 directed in the Writ Petition that the Corporation is to conduct election in all the textile mills in Tamil Nadu for the purpose of granting recognition to the unions. The Asstt. Commissioner of Labour, Coimbatore was directed to supervise the elections. There is also a finding in the Writ Petition that recognition should be given to a Trade Union that secure votes representing 10% of the work force. If the Union gets 20% votes then one more representative to is to be permitted during the negotiation. Thus for every 10% votes the recognized union will have one representation during the negotiation. Once the unions are granted recognition by election that was to be valid for three years.

15. Election was conducted as directed and recognition was granted to some of the unions. The percentage of membership was calculated on the basis of number of members for a union in all the 7 mills taken together. The Petitioner Union has got more than 10% membership in the Respondent Mill alone. However, in the absence of considerable number of members in other mills it did not come within the fold of above 10% when the membership of all the mills were taken together. So the Petitioner Union was not called for negotiation regarding the demands raised by them. Negotiations were held with LPF, NDLF, CITU and INTUC, the unions which obtained more than 10% of membership. A settlement was entered into with two unions on 15.08.2012. Later, the Respondent sought the intervention of the Conciliation Officer to convert the settlement into one under Section-12(3) of the ID Act. Accordingly, the settlement became one under Section-12(3) and thus binding on all other unions and workmen who have not participated in the negotiation or had been party to the settlement dated 15.08.2012.

16. According to the Petitioner Union if election result was declared at unit level rather than industry level, as was done, the petitioner would have obtained an opportunity to participate in the negotiation. The petitioner has stated that the direction of the High Court was actually to conduct election at unit level and give due recognition to unions at unit level.

17. Two contempt petitions were filed before the High Court stating that though the order of the High Court is to conduct unit level election, election was conducted for all

the mills together. In this contempt petition, an order was passed on 08.10.2013. On the basis of the submission of the Management that declaration of election at centralized level was contrary to the order, the Court directed that the error should be corrected and the declaration of the result should be produced in Court. The case was posted to another date for declaration of the result. Later the Election Officer submitted in Court that declaration of result as required was done and the same would be communicated to the parties. Accordingly, the contempt petitions were closed.

18. It could be seen from the pleadings and documents produced that negotiation was held with the representatives of the unions who obtained above 10% membership at centralized level and settlement was entered into on 15.08.2012. This settlement was converted into one under Section-12(3) under ID Act on 04.09.2012. Thus these happened prior to the order passed by the High Court in the contempt petitions asserting that election should have been conducted at unit level and not at centralized level. Though the understanding was that election should be at unit level either because it is not specifically stated in Ext.M1 order or because the order was misread or misinterpreted election result was declared at centralized level. Negotiation and execution of the settlement were done before the order in the contempt proceedings. The settlement has been implemented and the workers have been drawing the benefit out of the same also. Since declaration of the result was at centralized level the petitioner was not invited for the discussion. The act of execution of the settlement and drawing of benefits by the workers could not be undone by this proceedings. It would be beyond the order of reference.

19. As seen from Ext.M12, Writ Appeals have been filed against the Writ Applications and the Hon'ble High Court has stated while issuing notice that election will be subject to final outcome of the appeals. This is of course in respect of the election that was to be held in 2014 after expiry of the period of three years after declaration of the result of previous election. So now the management and the unions have entered the next stage so far as recognition of unions is concerned. For this reason also it will not be proper to give any relief to the petitioner.

20. For foregoing reasons the references are answered against the petitioners. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

#### Witnesses Examined:

For the 1st Party/ : None  
Petitioner Union

For the 2nd Party/ : MW1, Sri N. Gunasekaran  
Management

**Documents Marked :****On the petitioner's side**

Ex.No.	Date	Description
Ex.W1	05.09.1969	Settlement entered into between the Managements of Textile Mills in Coimbatore and various unions
Ex.W2	09.03.1972	Settlement entered into between the Managements of textile Mills in Coimbatore and various unions
Ex.W3	30.05.1972	Proceedings of the Commissioner of Labour, Madras
Ex.W4	12.03.1993	Settlement entered into between the Management of Sri Rangavilas Mills and various unions including the Petitioner Union
Ex.W5	28.05.2011	Letter given by the Petitioner Union to the Respondent Management
Ex.W6	20.02.2012	Letter given by the Petitioner Union to the Respondent Management
Ex.W7	05.04.2012	Letter given by the Petitioner Union to the Respondent Management
Ex.W8	13.06.2012	Letter given by the Respondent Mills to the Asstt. Commissioner of Labour (Central), Madurai
Ex.W9	09.08.2012	Letter of objections given by the Petitioner Union and other unions to the Assistant Commissioner of Labour (Central), Madurai (Camp Coimbatore)
Ex.W10	09.08.2012	Petition given by the Petitioner Union and other unions to the Asstt. Commissioner of Labour (Central), Madurai
Ex.W11	15.08.2012	Settlement entered into between the management of Sri Rangavilas Mills and the LPF Union and INTUC union under section 18(1) of the Industrial Disputes Act, 1947
Ex.W12	16.08.2012	Letter given by the Petitioner Union to the Respondent Management
Ex.W13	03.09.2012	Letter given by the Petitioner Union and other unions to the Regional Labour Commissioner, Chennai

Ex.W14	04.09.2012	Settlement entered into under Section-12(3) of the Industrial Dispute Act, 1947 between the Management of Sri Rangavilas Mills and LPF Union and INTUC
Ex.W15	08.10.2013	Order of the Honourable Madras High Court in Contempt Petition No. 1571 of 2010 and 155 of 2011

**On the Management's side**

Ex.No.	Date	Description
Ex.M1	02.09.2010	Order of the Hon'ble High Court in the Writ Petitions 1440 and 5030 of 2010 dated 02.09.2010
Ex.M2	19.12.2010	Election result dated on 19.12.2010
Ex.M3	19.12.2010	Certificate dated 19.12.2010 issued to elected 4 unions
Ex.M4	-	List of 251 workmen who gave declaration for accepting 18(1) settlement 15.08.2010. Specimen of 7 workmen attached
Ex.M5	03.05.2012	Joint Claim / Letter filed by five (5) Unions before Asstt. Labour Commissioner (Central), Madurai
Ex.M6	11.05.2012	Reply by NTC Ltd. to ALC (C)
Ex.M7	13.06.2012	Reply by Rangavilas Ginning Spinning & Weaving Mills, Coimbatore to ALC(C), Madurai
Ex.M8	23.08.2012	Conciliation failure report by ALC(C), Madurai
Ex.M9	21.03.2014	Proof Affidavit of WW1 – Mr. S. Doraisamy in ID 61/2012 before CGIT, Chennai
Ex.M10	13.06.2014	Settlement of WW1 – Mr. S. Doraisamy in Cross-Examination – ID 61/2012
Ex.M11	18.09.2014	Award of Hon'ble CGIT, Chennai in ID 61/2012
Ex.M12	09.05.2014	Letter from Mr. C.V. Vijayakumar, Advocate, Chennai – addressed to NTC Ltd. – Reg. WA No. 466 and 467 of 2014
Ex.M13	08.01.2009	18(1) Settlement between eight unions and the Management of National Textile Corporation Ltd. on General Wage Revision to the workers of NTC Unit mills in Tamil Nadu (Tenure – 01.01.1994 – 31.12.1998)



Ex.M14	15.08.2012	18(1) Settlement between the NTC Management and two recognized unions of Sri Rangavilas G.S. & W. Mills (for five years from 17.08.2012)
Ex.M15	04.09.2012	12(3) Settlement between the NTC Management and two recognized unions on workload revision of Sri Rangavilas G.S. & W. Mills (for 5 years from 17.08.2012)
Ex.M16	21.12.2012	Letter from NTC, SRO to Sri Rangavilas G.S. & W. Mills – approval for relieving seven workers in mixing department under Modified Voluntary Retirement Scheme
Ex.M17	28.01.2012	Letter from NTC, SRO to Sri Rangavilas G.S. & W. Mills – approval for relieving five workers in packing department under Modified Voluntary Retirement Scheme
Ex.M18	27.02.2012	Letter from NTC, SRO to Sri Rangavilas G.S. & W. Mills – approval for relieving twenty workers in spinning cleaning department under Modified Voluntary Retirement Scheme
Ex.M19	-	List of Permanent workers in Sri Rangavilas G.S. & W. Mills who left under MVRS in Mixing, Cone Packing and Spinning Cleaning Departments and their membership in their union
Ex.M20	03.05.2012	Joint claim statement filed by MLF, AITUC, ATP, HMS and BMS Unions before ALC (C), Madurai – dispute raised under section 2(k) of ID Act
Ex.M21	27.11.2012	Reply by NTC management before ALC (C), Madurai against the dispute raised under section 2(k) of ID Act.
Ex.M22	07.12.2012	Comments by the Sri Rangavilas G.S. & W. Mill Management before ALC (C), Madurai against the dispute raised u/s 2(k) of ID Act.
Ex.M23	23.08.2012 Issued on 20.12.2012	Conciliation failure report by ALC (C), Madurai in Ref. No. M/8/33/2012-A/M (issued on 20.12.2012)

Ex.M24 12.06.2012 Proceedings before BIFR in MA 429 of 2012 and Case No. 501/08 – NTC Ltd.

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 304.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 5/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-22013/1/2015-आईआर (सी-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 13th February, 2015

**S.O. 304.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (Ref. No. 5/2007) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 13/02/2015.

[No. L-22013/1/2015-IR(C-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

**Present :** Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 9th day of December, 2014

**INDUSTRIAL DISPUTE L.C. No. 5/2007**

#### Between:

Sri Padala Satyanarayana,  
S/o Rajam,  
C/o Smt. A. Sarojana, Advocate,  
Flat No. G7, Ground Floor,  
Rajeshwari Gayatri Sadan,  
Opp: Badruka Jr. College for Girls,  
Kachiguda, Hyderabad ...Petitioner

#### AND

1. The Chief General Manager,  
M/s. Singareni Collieries Company Ltd.,  
Srirampur (P) Area,  
Adilabad District.
2. The Colliery Manager,  
IK-1A Incline,  
M/s. Singareni Collieries Company Ltd.,  
Srirampur, Srirampur (P) Area,  
Adilabad District ...Respondents

**Appearances :**

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : Sri S.M. Subhani, Advocate

**AWARD**

Sri P. Satyanarayana, the workman filed this petition under Sec.2 A (2) of the I.D. Act, 1947 against the management of M/s. Singareni Collieries Company Ltd., seeking for declaring the impugned office proceedings No.SRP/PER/35.A/02/5046 dated 22.11.2002 issued by the first Respondent i.e., the General Manager of the management is illegal and arbitrary and to set aside the same. Consequently directing the Respondent man, to reinstate him into service duly granting all consequential benefits such as continuity of service, back wages and attendant benefits.

**2. The averments made in the petition in brief are as follows:**

The Petitioner workman was appointed as badli filler in M/s. Singareni Collieries Company Ltd., in the year 1998 and he continued in the service without any adverse remarks. While so, impugned proceeding No.SRP/PER/35.A/02/5046 dated 22.11.2002 was issued alleging that charge sheet No. IK-1A/2002/R.8/371 dated 6.2.2002 was issued under company's Standing Order No. 25.25 and 25.31 for habitual absenteeism from duty without leave or without sufficient cause during the period from January, 2001 to December, 2001. The said proceeding also states that the charge sheet was sent to the Petitioner's house and the same was returned undelivered as such, a paper advertisement was issued advising the Petitioner to attend for enquiry and that as per did not attend the enquiry on the Scheduled date, an ex parte enquiry was conducted and he was dismissed from the service by the said office order. The Petitioner was under going treatment in his native village. He was not aware of either issuance of the notice or it's publication in the newspaper. He has also not aware as to which address Respondent sent the intimation. If really the Petitioner is in receipt of said communication regarding enquiry or if he is aware of the issuance of the paper publication he could not certainly participated in the enquiry. He is not aware of the alleged communication sent to his home address. He did not receive any communication and the Respondents are put to strict proof of their claim that they have sent the charge sheet and show-cause notice to the correct address of the Petitioner's house. Petitioner has no knowledge about the paper publication said to have been made for the reason that he remained in bed at his native place, which is a remote area and he was not able to move from the bed and none of his family members are literates. Even otherwise, Petitioner's native place did not have any circulation of Vaartha Telugu Newspaper. Therefore,

Petitioner could not observe the details of enquiry. As a result of improper sending of notices, Petitioner could not participate in the enquiry. Had Respondents followed the rules scrupulously, Petitioner could have participated in the enquiry or atleast he could have approached the Respondents informing the factum of his ill-health and also he could have made a request to postpone the enquiry. He is the lone earning member of his family. As a result of his dismissal from service he and his family members are left with no source of livelihood. The contention of the Respondents that there were no extenuating circumstances to take a lenient view is also factually incorrect. Having been appointed in the year 1998, Petitioner has been serving the 1st Respondent company sincerely and dedicatedly and his services have been appreciated by one and all. Absenteeism due to sickness ought not to have been treated as serious misconduct. But for his sickness Petitioner could have been attended to his duties regularly. Since there was no other person to look after his health except his illiterate wife, at the place of his work, he was to go to his native place where his relatives were there to look after him. With the help of his relatives too, he took treatment through conventional modes and he became healthy. Assuming without admitting that the charges levelled against the Petitioner are correct. Even then imposition of punishment of dismissal from service would be totally disproportionate to the charges alleged. Petitioner requesting the court to modify the punishment of dismissal to any other lesser punishment by exercising powers conferred under Sec.11A of Industrial Disputes Act, 1947 thereby providing another opportunity to the Petitioner, to secure bread to himself and his family members, consisting of his ailing and old aged father, mother, wife and three children.

**3. Respondents filed their counter with the averments in brief as follows:**

Filing of this petition straight away without any conciliation is not justifiable and correct. Petitioner by his conduct accepted the misconduct of unauthorized absenteeism, he filed this petition after a lapse of 3 years 10 months and 14 days from the date of passing of dismissal order. Thus, there is delay and laches in filing the petition. After conducting a detailed domestic enquiry, duly following the principles of natural justice, the impugned order was passed. Petitioner has put in only 62 musters during the calendar year 1998, 120 musters during the year 1999; 131 musters during the year 2000 and only 03 musters during 2001. As such, charge sheet has been issued against the Petitioner under company's Standing Order No. 25.25 and 25.31 which reads as follows:

“25.25-habitual late attendance or habitual absence from duty without sufficient cause.

25.31-Absence from duty without sanctioned leave or sufficient cause or over staying beyond sanctioned leave.”

As he was not attending to his duties, charge sheet was sent to his home address by Registered post acknowledgement due, but it was returned undelivered by the postal authorities. In order to give the Petitioner fair opportunity, charge sheet cum enquiry notice was published in "Vaartha" telugu daily news paper, dated 18.3.2002 advising the Petitioner to submit a detailed explanation and to attend the enquiry on 28.3.2002. Accordingly Petitioner has participated in the enquiry held on 28.3.2002. He was given full and fair opportunity to defend himself. Enquiry was conducted following the principles of natural justice. After completion of the enquiry, Enquiry Officer has submitted his report finding the Petitioner as guilty of misconduct under Standing Order No.25.25 and 25.31. A copy of the enquiry report and enquiry proceedings was sent to his native address given by him at the time of his appointment by registered post acknowledgement due vide notice dated 3.5.2002, giving an opportunity to make a representation if any against the finding contained in the enquiry report within seven days of receipt of the same. The said notice was returned undelivered. As the Petitioner was not attending to his duties, a paper publication dated 5.6.2002 was given in "Vaartha" telugu daily news paper, stating that the enquiry report was made available at the office of the General Manager, Srirampur (P) area and he may receive the same in person and make representation, if any within one week from the date of receipt of the report of enquiry. But the Petitioner did not turn up for taking the copy of enquiry report nor did he submit any representation. As the charges levelled and proved against the Petitioner were serious in nature, the punishment warranted was that of dismissal from service. Petitioner's contention that he was undergoing treatment in his native place or village and was not aware of the charge sheet or paper publication made by Respondents in newspaper are all incorrect. Petitioner did not take any prior permission or leave from the competent authorities prior to leaving headquarters. He never informed the Manager regarding his sickness at any point of time. If he was really fell sick he should have reported at company's hospital for treatment. There are good number of medical facilities provided for the employees and their families by the management. If the Petitioner was really sick he would have availed the services of said medical facilities. Petitioner's contention that as he could not observe the date of enquiry published in Vaartha telugu daily news paper he could not attend to the enquiry and he could not participated in it are all false. After publication of the notice of enquiry Petitioner fully participate in enquiry and deposed before the Enquiry Officer. he admitted his guilt in the enquiry. The allegations made in paras 4 and 5 are false. He did not produce any witness/documentary evidence to support his case. Petitioner was absent from duties for one and half years continuously. His contention that punishment of dismissal

from service is too harsh, excessive and disproportionate to the charges levelled and proved is not correct. Since the beginning of his service he has been irregular to his duties. He did not improve his attendance even after issue of charge sheet and he had put in Nil musters up to 9th May, 2002. In the circumstances there were no extenuating circumstances to take a lenient view of the matter, thus, the impugned order was passed. Petitioner's contention that he served the company sincerely, dedicatedly and his services were appreciated by every one is incorrect. Even as per the mandate of the worker's court, persons who continuously absented themselves from duty for long periods are not entitled to be continued in the service. Petition is liable to be dismissed.

4. A memo has been filed for the Petitioner conceding the legality and validity of the domestic enquiry conducted in this case. In pursuance of the said memo and by virtue of the order dated 22.7.2010 this court held the domestic enquiry conducted in this case as legal and valid.

5. Heard the arguments of either party under Sec.11A of the Industrial Disputes Act, 1947.

6. **The Points that arise for determination are:**

I. Whether the impugned order No.SRP/PER/35.A/02/5046 dated 22.11.2002 issued by the 1st Respondent is illegal, arbitrary and is liable to be set aside?

II. To what relief the Petitioner is entitled to?

7. **Point No.I :**

It is an admitted fact that Petitioner has put in only three musters during the calendar year 2001 as badli filler of the Respondent company. It resulted into issuance of the charge sheet dated 6.2.2002, alleging that Petitioner is guilty of misconduct of habitual absenteeism without reasonable cause and prior permission and that under Clause 25.25 and 25.31 of Respondent company's Standing Order which reads:-

"25.25-habitual late attendance or habitual absence from duty without sufficient cause.

25.31-Absence from duty without sanctioned leave or sufficient cause or over staying beyond sanctioned leave."

Though Petitioner alleged in his petition very seriously that the Departmental enquiry conducted against him was not properly conducted stating that he did not receive any notice of the enquiry at all and therefore, he could not participate in the said enquiry, thereafter he conceded to the validity of the domestic enquiry by filing a memo which resulted into this forum holding that the domestic enquiry conducted in this case as legal and valid.

8. As can be seen from the petition filed by the Petitioner the entire petition is oriented against the manner in which the domestic enquiry was held. But the fact remains that the Petitioner got knowledge of the Departmental enquiry initiated against him and fully participated in the Departmental enquiry. He failed to produce any evidence to prove that he suffered any sickness which made him unable to move from the bed at any point of time.

9. One important aspect to be noted in this case is that Petitioner alleged in his petition that as he was confined to bed he could not note the paper publications made regarding the date fixed for Departmental enquiry and therefore, he could not participate in it. Whereas he conceded to the validity of the domestic enquiry after the counter is filed in this case by the Respondents wherein it is categorically stated that on noting the date of Departmental Enquiry published in Vaartha telugu daily news paper, Petitioner participated in the Departmental Enquiry. Thus, it is very much clear that in all likelihood Petitioner was not confined to bed at the relevant time as alleged by him.

10. It is also a fact which remains that during the Departmental Enquiry and while he was making a statement before the Enquiry Officer Petitioner claimed that he suffered an underground accident and he was on sick leave for a week and there after he remained absent from duty due to his ill-health and family problems. This statement has not been contradicted to for the management, thus, it is to be taken that there is some cause for the Petitioner to remain absent from duty. If Petitioner is unable to attend the duty due to sickness, it can not be said that it is not a sufficient cause. Since Petitioner's contentions regarding his sickness and family problems are not contradicted to, respondent can not find fault with the Petitioner for not producing any documents/ witnesses to prove the same. If his contentions were contradicted to by subjecting him to cross examination during Departmental enquiry, in all likelihood he might have produced relevant evidence to prove his contentions. Since his contentions were not contradicted to by not subjecting him to cross examination, there would be no need for him to produce any further evidence since uncontradicted contentions are to be taken as admissions on the part of the adverse party.

11. In view of the fore gone discussion of the material on record it can clearly be seen that there is some cause for the absenteeism of the Petitioner. But it is an unauthorized absenteeism since, he failed to take any leave or permission either prior to or while availing the same. Petitioner's contentions that he was not in a position to seek for leave/permission is not a sustainable contention. He himself stated that he was on one week sick leave and thereafter continued to be absent from duties.

12. But since, the Respondent organization failed to contradict the statement of the Petitioner that due to his sickness and family problems he could not attend to his duties, it can not be said that appropriate punishment to be awarded to the Petitioner in this context is dismissal from service, especially when it is the first and fore most disciplinary proceeding initiated against the Petitioner by the Respondent management. Petitioner ought to have been given an opportunity to mend his ways by awarding him lesser punishments which are also provided for the misconduct of this nature in the Standing Order of the Respondent company. If he failed to mend his ways and again and again Departmental proceedings are constrained to be initiated against the Petitioner, then, the question of awarding punishment of removal from service, which is capital punishment, will arise. Therefore, the impugned order is liable to be set aside as the punishment awarded is disproportionate to the proved charges as it is a first instance of the misconduct charged and proved against the Petitioner.

This point is answered accordingly.

**13. Point No. II :**

In view of the finding given in Point No.I, Petitioner is entitled to be reinstated into service, but he is liable for alternative punishment to the misconduct owing to the fact that he is absent from duty for substantial period i.e., more than one and half years continuously without any leave/permission. Stoppage of three annual increments without cumulative effect is sufficient punishment to be awarded to the Petitioner. Considering the fact that he caused substantial inconvenience and hardship to the Respondent management due to his continuous absenteeism which resulted into the impugned order and since he did not attend the work in any manner for substantial period, Petitioner is not entitled for any back wages but he is entitled for other attendant benefits.

This point is answered accordingly.

**Result :**

In the result petition is allowed.

The Impugned office order No.SRP/PER/35.A/02/5046 dated 22.11.2002 of the first Respondent wherein the Petitioner has been dismissed from service is hereby set aside. Petitioner shall be reinstated into service as badli filler forth with. He is awarded with an alternative punishment of stoppage of three annual increments without cumulative effect. Petitioner is not entitled for any back wages but he is entitled for all other attendant benefits.

Award passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer



**Appendix of evidence**

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 305.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, गोदावरीखानी के पंचाट (संदर्भ संख्या 25/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[ सं. एल-22013/1/2015-आईआर (सी-II) ]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 13th February, 2015

**S.O. 305.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Godavarikhani (IT/ID/25/2010) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 13/02/2015.

[No. L-22013/1/2015-IR(C-II)]

Md. ZAHID SHARIF, Section Officer

**ANNEXURE****BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GODAVARIKHANI**

**Present :** SRI G. V. KRISHNAIAH, Chairman-cum-Presiding Officer

**INDUSTRIAL DISPUTE No. 25 OF 2010**

Monday, the 19th day of January, 2015

**Between:-**

Munimanda Rajamallu,  
S/o. Ramulu,  
Aged about 42 years,  
Occ: Ex.Badli Filler,  
E.C.No.2894617,  
R/o.H.No.8-21,  
CCC X-Road,  
Amulya Internet,

PO: Naspur Village,  
Mandal Mancherial,  
Dist.Adilabad

...Petitioner

**And**

1. The Colliery Manager, SCC Ltd.,  
Chennur 1- Incline, Chennur,  
District Adilabad.

2. The General Manager, SCC Ltd.,  
Sreerampur Area, Sreerampur,  
Dist.Adilabad

...Respondents

This case coming before me for final hearing in the presence of Sri S.Bhagavantha Rao, Advocate for the petitioner and of Sri D.Krishna Murthy, Advocate for the Respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:-

**AWARD**

1. This petition is filed U/Sec. 2(A)(2) of I.D. Act challenging the dismissal of the petitioner passed by the respondents praying for his reinstatement into service with continuity of service and full back wages.
2. Petitioner was dismissed from service by the respondent vide office order dt.06-11-2002 after holding domestic enquiry on the following charge.

**CHARGE:-**

“Habitually absence from duty without sufficient cause may amount misconduct under 25.25 standing orders of company during the period from January, 2000 to December, 2000”.

3. Petitioner challenges his dismissal on the following grounds:-

- a) The petitioner was appointed as Badli Filler on 30-03-1996 under dependent employment scheme and worked upto 06-11-2002.
- b) The services of the petitioner are governed by various standing orders of company and the petitioner was put in requisite musters in 1996-195 musters, 1997-211 musters, 1998-106 musters, 1999-160 musters and 2000-27 musters. The petitioner was issued charge sheet dt.10-02-2001 and he was dismissed from on 6-11-2002.
- c) The enquiry conducted by the respondents is null and void. The respondents also did not conduct enquiry properly.
- d) Punishment of dismissal from service is extremely harsh, highly excessive and shockingly disproportionate.

Hence, he prays to allow the petition.

4. In response to this challenge, respondents filed counter justifying the dismissal of the petitioner. The respondents company being mining industry is a Central Government subject and the petitioner ought to have approached the CGIT, Hyderabad. This petition is not maintainable before this Court and is liable to be dismissed.

The petitioner being a chronic absentee was issued charge sheet for putting only 23 musters in the year 2000. The following attendance particulars of the petitioner indicate the fact that the petitioner was not regular to his duties and he had not put in required 190 musters during the period from 1998-2002.

Sl.No.	Year	No. of musters.
1.	1998	106
2.	1999	160
3.	2000	23
4.	2001	-Nil-
5.	2002	-Nil-

During the period from January, 2000 to December, 2000, the petitioner had put in only 23 musters. As the above act amounted to misconduct under Standing Orders Clause No. 25.25 of the company, the petitioner was charge sheeted. After considering the documentary evidence and other evidence on record, the enquiry officer submitted his unbiased report holding that the petitioner is guilty of misconduct under company standing orders. The petitioner was issued show cause notice.

5. The respondent company after considering the past record of the petitioner and on findings that there were no extenuating circumstances for taking a lenient view was constrained to dismiss the petitioner from service. The respondents company conducted the enquiry proceedings duly in accordance to the principles of natural justice and law giving full opportunity to the petitioner. Therefore, the respondents pray to dismiss the petition without granting any relief to the petitioner.

6. Counsel for the petitioner filed Memo praying this Tribunal to pass an award, U/Sec. 11-A of I.D Act.

7. Respondents filed written arguments.

8. During the course of hearing, Ex.W-1 to W-3 and Ex.M-1 to Ex.M-13 are marked.

9. Heard both sides. Perused the material papers on record.

10. The consideration of respective contentions of the parties the following points required to be determined:-

1. "Whether this Tribunal has got jurisdiction?"
2. "Whether the punishment of dismissal of the petitioner is justified and proportionate?"

11. **POINT No. 1 :** As per the Judgment of the Hon'ble High Court reported in 1997 (III) LLJ (Supp.) 11 between U. Chinnappa And Cotton Corporation of India, this Court has got jurisdiction to entertain the dispute raised by the petitioner. Hence, the point is accordingly answered in favour of the petitioner.

12. **POINT No. 2 :** Charge sheet dt.10-2-2001 is marked as Ex.M-1, which shows that the petitioner worked only for 23 days and absented for 3 days during the year 2000. In the reply to the charge sheet marked as Ex.M-2, petitioner while admitting his absenteeism pleaded that he suffered from back pain. Enquiry notices were returned undelivered by the postal authorities under Ex.M-4 & M-6. Paper publication of enquiry notice is marked as Ex.M-7. But the petitioner did not turn up and did not participate in the enquiry proceedings. Exparte enquiry was conducted under Ex.M-6 and enquiry report is marked as Ex.M-9. The show cause notice was also returned unserved and it was published in the news paper under Ex.M-12. Further the petitioner put-in -Nil- musters during the years 2001 and 2002. Thus even after issuing charge sheet, the petitioner did not choose to improve his attendance and not at all attended to duties during the subsequent years 2001 and 2002. The petitioner was dismissed from service by order dt.6-11-2002 is marked as Ex.M-13. After that he did not prefer any appeal and kept quiet for nearly 8 years and raised the Industrial Dispute in the year 2010.

13. Coming to the inclination on the part of the petitioner to get reinstated, he approached Tribunal nearly 8 years after his dismissal from service. The record placed before this court shows that the petitioner was given more than sufficient opportunities to mend himself but he failed to do so and put in -Nil- musters during the year 2001 and 2002. With regard to the reason for the poor attendance of the petitioner during the year 2000, no material is produced before this Tribunal about the back pain and ill-health suffered by the petitioner and the treatment taken by him. In the absence of any supporting evidence, the plea of the petitioner can not be accepted. There is also no explanation as to why the petitioner put in -Nil- musters during the years 2001 and 2002. Therefore this is a clear case where the petitioner was not inclined to attend duties regularly and though the delay of 8 years is not a big delay in approaching this Tribunal, it shows the nonchalant attitude of the petitioner in asserting his rights.

14. Therefore viewed from any angle, the petitioner is unable to make out that he was prevented from attending duties because of reasons beyond his control. This is a case where disinclination to attend duties is apparent. Therefore, this Tribunal is compelled to hold that the punishment of dismissal from service imposed by the respondents is justified and that the petitioner is not entitled to any relief. Hence, the petition is liable to be dismissed and accordingly dismissed.

15. In the result, the petition is dismissed.

G. V. KRISHNAIAH, Chairman-cum-Presiding Officer

### Appendix of Evidence

#### Witnesses Examined

For workman For Management

-Nil-

-Nil-

#### EXHIBITS

##### For workman:-

Ex.W-1 Dt. 30-03-1996 Office order (Appointment order) x.copy

Ex.W-2 Dt. 08-11-2002 Dismissal order, x.copy

Ex.W-3 Dt. — Pay slip for the month of October, 1996

##### For Management:-

Ex.M-1 Dt. 10-02-2001 Charge sheet, office copy

Ex.M-2 Dt. 17-02-2001 Reply to charge sheet

Ex.M-3 Dt. 14-07-2001 Enquiry notice

Ex.M-4 Dt. 20-07-2001 Undelivered returned postal cover with ack.,

Ex.M-5 Dt. 24-10-2001 2nd notice for enquiry

Ex.M-6 Dt. 29-10-2001 Undelivered returned postal cover with ack.,

Ex.M-7 Dt. 06-01-2002 Paper publication of enquiry notice

Ex.M-8 Dt. 21-01-2002 Enquiry proceedings

Ex.M-9 Dt. 24-01-2002 Enquiry report

Ex.M-10 Dt. 07-02-2002 Show cause notice

Ex.M-11 Dt. 08-02-2002 Undelivered returned postal cover with ack.,

Ex.M-12 Dt. 05-05-2002 Paper publication of show cause notice

Ex.M-13 Dt. 06-11-2002 Dismissal order.

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 306.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एन.एल.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 86/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[ सं. एल-22012/163/2012-आईआर (सीएम-II) ]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 13th February, 2015

**S.O. 306.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 86/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of M/s. Neyveli Lignite Corporation Ltd. and their workmen, received by the Central Government on 13/02/2015.

[No. L-22012/163/2012-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT, CHENNAI

Friday, the 30th January, 2015

**Present :** K.P. PRASANNA KUMARI, Presiding Officer

#### Industrial Dispute Nos. 86/2012

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Neyveli Lignite Corporation Ltd. and their workman)

#### BETWEEN:

The General Secretary : 1st Party/Petitioner  
NLC Podhu Contract Union  
Thozhilalar Sangam (CITU)  
Central Bus Stand South Side  
Neyveli-607801

#### AND

The Director/(HR) : 2nd Party/Respondent  
M/s Neyveli Lignite  
Corporation Ltd.  
Corporate Office  
Neyveli-607801

#### Appearance :

For the 1st Party/ : M/s. Ajoy Khose, Advocates  
Petitioner Union

For the 2nd Party/ : M/s. N.A.K. Sarma,  
Respondent N. Nithianandam, Advocates

#### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-22012/163/2012-IR (CM-II) dated 07.11.2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the demand of the Union in seeking regularization or at least enrolment in the Howsico’s Society of S/Sri S. Aruldos and P. Kanagavel is justified? To what relief the concerned workmen is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 86/2012 and issued notice to both sides. Both parties entered appearance through their counsel and filed claim and counter statement respectively. The petitioner has filed rejoinder in reply to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The Respondent is involved in mining of Lignite and generation of Electricity through Thermal Power Stations. The Respondent employs thousands of regular employees as well as an equal number of contract labourers. The work being carried out by the contract labourers are incidental to the trade and manufacturing process of the Respondent and it is perennial work. A large number of contract labourers were absorbed as direct and permanent workers. The Respondent is having Corporate Office inside Neyveli Township. Though the Respondent is employing permanent workers for sweeping and cleaning for each unit and sections, there were no employees to clean and to carry out work in the general area of the Corporate Office. The agricultural lands and house of Aruldoss and Kanagavel were acquired by the Respondent for mining and other purposes. Both of them were given employment by the Respondent in the year 1997 to carry out the work of cleaning and sweeping general area of the Corporate Office. There were five more workers who were employed in this manner. They were paid Rs. 20/- per day initially. From 1998, they were paid @ Rs. 30/- per day and from 1999 Rs. 40/- per day. Though in the year 2001 an official decision was taken to pay them @ Rs. 60/- per day, payment @ Rs. 40/- per day continued even after that. For 11-1/2 years they continued to get the very same wages @ Rs. 40/- per day. They had been working continuously for 13 years on the hope that they would be made permanent. On 24.09.2010 they made a representation to regularize their services. But the Respondent rejected their request for regularization by order dated 01.03.2011. After this the Petitioner Union took up their cause and made a demand for permanent employment for these workers. During the pendency of the conciliation proceedings the Respondent denied employment to Aruldoss and Kanagavel from 06.03.2011 orally, without any notice. The Petitioner Union raised another industrial dispute. The Respondent contended that the concerned workmen were neither engaged as casual labourers nor as contract labourers at any point of time. Since there were no settlement over the demands, the Assistant Labour Commissioner submitted his failure report and thereafter the Government has referred the dispute. The action of the Respondent in not regularizing the services of the two workmen and not giving them permanency and absorption and also their termination from service w.e.f. 05.03.2011 is liable to be interfered. An order may be passed holding that the action of the Respondent in not giving permanency

to the concerned workmen and terminating their service w.e.f 05.03. 2011 during the pendency of the dispute is unjustified and direction may be given to the Respondent to reinstate the workmen w.e.f. 05.03.2011 with continuity of service, backwages and other attendant benefits and also to give them permanency and absorption from the date of entry into service or at least from the date of completion of 480 days in service.

4. The Respondent has filed Counter Statement contending as below:

The Industrial Dispute raised by the petitioner is frivolous and vexatious. A relief is sought on behalf of the concerned individuals on a wrong assumption that they were employed by the Respondent upto 05.03.2011. The two individuals were neither engaged by private contractors nor by any other contractors. They were engaged from time to time and not continuously for doing part-time job for short durations based on need for performing sundry works such as cleaning, moving items, etc. in Corporate Office of the Respondent intermittently on job rate compensation. On rest of the days they were gainfully employed elsewhere. No employer-employee relationship existed at any time between the concerned individuals and the Respondent. It is not admitted that the concerned individuals were employed by the Respondent between 1997 and 2011. The Petitioner Union has no locus-standi to maintain the dispute, it being only a fringe union and not at all representative of any group or class of workmen of the Respondent. The Petitioner Union is not a recognized one so far as Respondent is concerned. The dispute of the two concerned individuals is personal in nature. Only those individuals can raise their dispute. In the absence of locus-standi for the petitioner to maintain the dispute itself, the ID is liable to be dismissed. The Respondent has a workforce of about 18,000 employees of which 14,000 are in workmen category. The workmen are governed by the Certified Standing Orders of the Respondent. The recruitment and service conditions are governed by the rules and regulations of the Respondent. The engagement of concerned individuals was purely on need basis. There was no appointment nor was their any termination on account of this. They were not engaged even on part-time rate basis for the last three to four years. The expression "Employed" as contemplated in ID Act must have continuity of service. The concerned individuals were never employed by the Respondent. Since there is no employer-employee relationship between the Respondent and the concerned individuals also, the ID is liable to be dismissed. An order may be passed accordingly.

5. In the rejoinder filed, the petitioner has denied the contentions in the Counter Statement. It is also asserted that both Arul Doss and Kanagavel were directly employed by the Respondent and they are workmen within the



meaning of Section-2(s) of the ID Act. It is further stated that they were continuously employed on all working days without any break. Payment was made to them once in a fortnight based on the attendance separately maintained for them. The work carried out by them was permanent in nature, it is also stated.

6. The evidence in the case consists of oral evidence of WWs 1 and 2 and MW1 and documents marked as Ext.W1 to Ext.W16 and Ext.M1 to Ext.M3.

7. **The points for consideration are:**

- (i) Whether the demand of the petitioner in seeking regularization of Aruldoss and Kanagavel is justified?
- (ii) To what relief the concerned workmen are entitled?

**The Points**

8. Though the Petitioner Union has raised the dispute seeking regularization of two workmen viz. Arul Doss and Kanagavel, it has come out in evidence that Kanagavel died after the dispute was raised, even before the Claim Statement was filed. So whatever is the relief, if any to which Kanagavel is entitled could be only monetary in nature, payable to his legal heirs.

9. It is the case of the Petitioner Union that Arul Doss, Kanagavel and five other individuals were employed in the general area of the Corporate Office of the Respondent for sweeping and cleaning from the year 1997. It is stated that though the other workers have left when their aspiration for permanency in the establishment of the Respondent did not materialize, Aruldoss and Kanagavel continued to work under the Respondent for the paltry amount of Rs. 40/- per day for almost 11.5 years. They have given a representation to the Respondent to absorb them in the establishment as permanent workers but this representation was rejected on 01.03.2011. According to the petitioner union it has taken up the case of the concerned workmen and have raised the dispute before the Asstt. Labour Commissioner on 07.02.2011. In its Counter Statement the Respondent has raised a preliminary objection that the petitioner has no locus-standi to raise the dispute, it being a fringe union not recognized. There is the evidence given by WW2, the Secretary of the Union that the Union has a membership of about 2000. Ext.W16 is the resolution passed by the Petitioner Union to take up the cause of the concerned workmen and to raise dispute on their behalf. So the case of the Respondent that the petitioner has no locus-standi to raise the dispute could not be accepted.

10. It has also been contended on behalf of the Respondent that there is no evidence to show that the concerned individuals were members of the Union at the time when the dispute was raised and for this reason also the petition is not maintainable. This contention is raised

based on the evidence given by Aruldoss examined as WW1 that he joined the Petitioner Union in February, 2011 only. It is pointed out on behalf of the respondent that the Petitioner Union has raised the dispute on 07.02.2011 and there is nothing to show that Arul Doss has become a member of the Union even prior to that. The counsel for the Respondent has referred to Ext.W15 in which photocopies of membership cards of several years are produced. Referring to the answer given by WW1 that he joined the Union in February, 2011 only the counsel has tried to make out that all these are created for the purpose of the case. However, on going through Ext.W15, I feel that it could not be the case. The membership card of even 2012 is seen produced. Such cards for the years starting from 1998 are there. WW2, the President of the Petitioner Union has disclosed during his cross-examination that Arul Doss has joined the Union in 1998 and has ceased to be a member of the Union in 2004. Thus it could be seen that Arul Doss might have rejoined the Union in 2011. Of course, Ex.W15 reveals membership cards of the years after 2004 also. Probably the year in which Arul Doss ceased to be a member of the Union was wrongly given by WW2. In any case there could be no doubt that the photocopies of membership cards found in Ext.W15 are genuine and the practice was to renew the membership each year. When WW1 has stated that he has become the member of the Union in February, 2011 it could only be the month in which he rejoined the Union. At the worst it can be that the petitioner has become a member of the Union for gathering help for the purpose of raising the dispute. Even in such case the Petitioner Union would have obtained locus-standi to maintain the dispute. For this reason also the contention that the Petitioner Union is not entitled to prosecute the dispute is to be rejected.

11. A contention has been raised on behalf of the Respondent that the concerned individuals are not workmen as defined in Section-2(s) of Industrial Disputes Act at all. The case that is put forth is that they were only being engaged occasionally on need basis and there was never any employer-employee relationship between the Respondent and the concerned persons. Even assuming that the contention of the Respondent that the concerned individuals were being engaged only occasionally, the argument advanced on behalf of the Respondent could not be accepted when the purport of the definition given in Section-2(s) of the Act is taken into account. The Apex Court has observed in the decision in DEVINDER SINGH VS. MUNICIPAL COUNCIL SANAAUR reported in 2011 6 SCC 584 that for a person to fall under the definition of the term workman under Section-2(s), the source of employment, the method of recruitment, the terms and conditions of employment/contract of service, the quantum of wages/pay and the mode of payment are not at all relevant. It was also observed that the definition of workman does not make any distinction between full-time

and part-time employee or a person appointed on contract basis. It was further held that there is nothing in the plain language of Section-2(s) from which it can be inferred that only a person employed on a regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part-time or contract basis on fixed wages or as a casual employee or doing duty for fixed hours is not a workman. It is the case of the Respondent in the Counter Statement that the concerned individuals were being engaged at times on need basis. So, on the very basis of this admission it can be held that the concerned persons come under the definition of workman in Section-2(s) of the Industrial Disputes Act.

12. Now the question to be considered is whether the case of the petitioner that the two workmen including WW1 were working in the Respondent establishment continuously is correct? It is the case of the petitioner that the concerned workmen started to work for the Respondent in the year 1997. There were five other workers also employed in the same year. They were carrying out the cleaning, sweeping and other allied work in the general area of the Corporate Office of the Respondent. Though WW2, the President of the Union does not know much about the nature of the employment of the two individuals, there is the evidence of Arul Doss, who is examined as WW1 revealing the details of work done by him. He has stated that initially himself and others alongwith him were paid @ Rs. 20/- per day only. From February, 1998 the remuneration was enhanced to the rate of Rs. 30/- per day. Thereafter, from February, 1999 they were being paid @ Rs. 40/- per day. He has stated in his affidavit that for 11.5 years from February, 1999 he was receiving @ Rs. 40/- per day only as wages. He has stated that all of them were employed for six days in a week but without any wages for intervening holidays. He has stated that he used to work from 0600 AM to 0100 PM in the Respondent establishment. He used to be paid on a fortnightly basis. Wages was paid on vouchers affixed with revenue stamps.

13. On going through the documents marked on the side of the petitioner it could be seen that the concerned workmen were being employed on a regular basis. Of course, the case of the petitioner is that the workmen in question were employed from 1997. However, the documents produced are pertaining to the period from 2000 only. Ext.W1 (series) are the orders sanctioning temporary imprest for making payment to the labourers who were engaged for cleaning the Corporate Office. Alongwith some of these orders the names of the workmen who received payment out of the temporary imprest also are available. These contain the signature of the workmen also. However, most of the orders of sanction are without any such attachment. Certainly, these orders would not show on behalf of which workers the temporary imprest are opened. It has been pointed out on behalf of the Respondent that the list of workers attached to the sanction

order though shows the amount received by them and also shows the signature does not contain the signature of any official on behalf of the Respondent. Certainly, this is true in respect of some of them. However, on a perusal of Ext.W1 (series) it could be seen that except for a few at the beginning, the Officer of the Respondent has signed the lists also. Pages 30, 32, 34, 37, 38, 40 and 44 contain the signature of an official of the Respondent. It could also be seen that the amount released to the concerned workers tally with the amount shown in the sanction order. On going through Ext.W2 (series) it could be seen that at the later stage signature of the official of the Respondent is available in all the documents. In Ext.W2 (series), in the lists of workers with the heading "Labour Payment" showing a specified period the signatures of the concerned official are there. In all these documents the name of WW1 and Kanagavel appear. Their signatures appear on the revenue stamps affixed in the document. Initially the number of days worked are not shown. However, at the later stage these are also shown. From 03.02.2004 onwards (Page 97 of Petitioner's document), the number of days worked by each workman are also given. As seen from Page-97 Arul Doss has worked for 15 days during the period from 16.01.2004 to 31.01.2004. Page-99 reveals that Kanagavel has worked for 14 days and Arul Doss for 15 days during the period from 01.02.2004 to 15.02.2004. Again, Page-101 reveals that Aruldoss has worked for 12 days and Kanagavel for 9 days during the period from 01.03.2004 to 15.03.2004. Again, during the period from 16.02.2004 to 29.02.2004 Kanagavel has worked for 14 days and Aruldoss 13 days (Page-103). Other documents of similar kind also show that these two persons were working for the 'Respondent on a regular basis and were receiving wages @ Rs. 40/- a day. Even though it is the case of the Respondent that these workers were being engaged on need basis and that also occasionally, the documents speak otherwise. The orders sanctioning opening of temporary imprest would reveal that this was being done continuously on a fortnightly basis without any break. All the imprest were for payment to the labourers who were engaged for cleaning the Corporate Office. This would show that it was not a case of occasional engagement. On the other hand, the two workmen concerned were being engaged on regular basis for the work of cleaning the Corporate Office alongwith other similar workers.

14. The evidence given by MW1, the Deputy General Manager examined on behalf of the Respondent also reveal that the concerned workmen were being engaged on a regular basis. In the affidavit filed by this witness, she has of course stated that the concerned workmen were engaged only intermittently for short durations and they performed sundry work of non-recurring and non-regular nature. However, it is clear from the admission brought out during cross-examination of MW1 that these workmen

must have been working on a regular basis. She has admitted during her cross-examination that Ext.W1 (series) and Ext.W2 (series) are issued by the Corporate Office. MW1 herself was working in the Corporate Office from 2010. She has stated that though contract labourers were engaged for doing the cleaning work in other departments, there were no contract labourers deployed for cleaning and sweeping work in the Corporate Office. This would show that the cleaning and sweeping work of the entire Corporate Office were being carried out through casual workers like WW1, Kanagavel and others. MW1 has stated that those who are doing sweeping, cleaning and scavenging work are to work for 8 hours. At the later stage of the cross-examination she has admitted that apart from cleaning and sweeping, WW1 was engaged for other works also. This admission by WW1 justifies the case of WW1 that apart from cleaning and sweeping work, himself and others were engaged for the works such as moving articles also. WW1 has of course stated during the cross-examination that his cleaning and sweeping work will be only for 2.5 hours. He has even stated that there will not be the work of shifting of articles every day. In spite of this it is clear that the engagement used to be for the whole day for the reason that they are expected to do the work of moving and shifting the articles also. This is clear from the documents produced as well. The service of the concerned workmen were required at the Corporate Office on a regular basis and that is why they were engaged daily. The documents reveal that the concerned workmen were working under the Respondent until 2011 when the Respondent stopped engaging them for the reason that they have demanded regularization. MW1 has admitted during her cross-examination that after the demand of the workmen for regularization was rejected the Respondent has stopped engaging them for work. So, it is very much clear that the concerned workmen were continuously and regularly engaged by the Respondent until the time when they were denied work on account of their demand for regularization. The nature of the work being cleaning and sweeping mainly, the work is certainly perennial in nature also.

15. As already pointed out, MW1 has admitted during her cross-examination that the concerned workmen were denied work after their demand for regularization was rejected on 01.03.2011. Even before this, on 07.02.2011 the petitioner union has taken the cause of the concerned workmen and raised dispute before the Assistant Labour Commissioner. So it is clear that the denial of work was at the time when dispute was pending before the Assistant Labour Commissioner. So the same is in violation of Section-9A of Industrial Disputes Act. This amounts to termination of service as laid down by the Apex Court in the decision in *SRI H.D. SINGH VS. RESERVE BANK OF INDIA AND OTHERS* reported in 1986 1 SCC 127. It was a case where the employee was provided

with work whenever work was available. The name of the employee was struck off from the list of Mazdoors kept by the Reserve Bank. The Apex Court has held that deliberate refusal to engage the employee amounts to unfair labour practice and striking off the name from the roll amounts to termination from service. Undoubtedly the denial of work to the concerned workmen by the Respondent is in violation of Section-9A of the Industrial Disputes Act. For this reason itself the workmen would be entitled to reinstatement by the Respondent.

16. The counsel for the petitioner has argued that the restriction laid down by the decision in *Uma Devi's* case is not a bar for regularizing the concerned workmen. The counsel has referred to the decision of the Apex Court in *MAHARASHTRA STATE ROAD TRANSPORT CORPORATION AND ANOTHER VS. CASTERIBE RAJYA PARIVAHAN KARAMCHARI SANGHATANA* reported in 2009 8 SCC 556 in which *Uma Devi's* case has been explained. In the above case the Apex Court has observed that *Uma Devi's* case is an authoritative pronouncement for the proposition that the Supreme Court and the High Courts should not issue directions of absorption, regularization or permanent continuance of temporary, contractual, casual, daily wage or ad-hoc employees unless recruitment itself was made regularly in terms of constitutional scheme but the case does not denude the industrial and labour courts of their statutory power under Section-30 read with Section-32 of MRTU Act to order permanency of workers who have been victims of unfair labour practice on the part of the employer under Item-6 of Schedule-IV of the Act where the posts on which they have been working exist. *Uma Devi* case cannot be held to have overridden powers of the Industrial and Labour Courts in passing appropriate order under Section-30 of the Act once unfair labour practice on the part of the employer under Item-6 of Schedule-IV is established, it was further held. The Apex Court has also observed that employing badlis, casuals or temporaries and to continue them as such for years with the object of depriving them of the status and privileges of permanent employees is an unfair labour practice on the part of the employer under Item-6 of Schedule-IV. Once such unfair labour practice on the part of the employer is established the Industrial and Labour Courts are empowered to issue preventive as well as positive direction to an erring employer. Affirmative action against the employer comprehends within its fold a direction to the employer to accord permanency to employees affected with such unfair labour practice, it was further held.

17. Of course, in the *MSTC* case referred to above the Apex Court had been considering the relevant provisions in *Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act*, an enactment of the State of Maharashtra. The counsel for the petitioner has been trying to draw parallel between the Maharashtra



Act and the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. Section-3 of this Act provides that notwithstanding anything contained in any law for the time being in force every workman who is in continuous service for a period of 480 days in a period of 24 calendar months in an industrial establishment shall be made permanent. It has been pointed out by the counsel that in spite of Uma Devi's case the provisions of the Maharashtra Act were given effect to in MSTC case. According to the counsel, Section-3 of the Tamil Nadu Act is not affected by the dictum laid down in the Uma Devi case.

18. Even without invoking the Tamil Nadu Act for conferring permanency the case on hand can be disposed based on the dictum laid down by the Apex Court. Even though in the MSTC case dictum was laid down while considering the Maharashtra Act, the power of the industrial adjudicator under the Industrial Disputes Act has been upheld by the Apex Court. The practice of employing persons for years with the object of depriving them of the status of permanent employees was deprecated by the Apex Court as unfair labour practice. Under the Industrial Disputes Act, Item-10 of Schedule-V describes such practice as an unfair labour practice. The counsel for the petitioner has referred to the decision of the Apex Court in the decision in *PREMIER AUTOMOBILES LTD. VS. KAMLEKAR SHANTARAM WADKE AND OTHERS* reported in 1976 1 SCC 496 to stress on the power of the industrial courts. It has been held in the above case that the Labour Courts and Tribunals to whom the industrial disputes are referred by the appropriate governments can lay down new industrial policy for industrial peace and order reinstatement of dismissed workman. This position has been reiterated by the Apex Court in the decision in *HARINANDAN PRASAD VS. FOOD CORPORATION OF INDIA* reported in 2014 2 SCC (L&S) 408. Considering the *UP Power Corporation* case reported in 2007 5 SCC 755 and MSTC case referred to earlier the Apex Court has stated that the law laid down in these two cases are not contradictory to each other. Referring to the MRTU Act the Court has stated that the judgment in the Maharashtra case was rendered under the Act and the specific provisions of that Act were considered to ascertain the powers conferred upon the industrial tribunal and the labour court by the said Act. However, the Court has also stated "at the same time it hardly needs to be emphasized that the powers of the Industrial adjudicator under the ID Act are equally wide. The act deals with industrial disputes and provides for conciliation, adjudication and settlements and regulates the rights of the parties and the enforcement of awards and settlements and thus by empowering the adjudicating authorities to give reliefs such as reinstatements of wrongfully dismissed or discharged workmen which may not be permissible in common law or justified under the terms of contract between employer and such workmen. The legislator has attempted to

frustrate the unfair labour practices and secure the policy of collective bargaining as a road to industrial peace". Thus it could be seen that under the Industrial Disputes Act the power of industrial adjudicator is wide enough and it is very well entitled to order reinstatement or regularization or grant any other relief as the circumstances may require, within the parameters of the law.

19. The concerned workman in the present case had been working for the Respondent for years together continuously and regularly without any break. It is clear from the admission of MW1 that sanctioned posts were there though appointment letters were not given to them. MW1 has stated that upto 1990 only permanent workers were doing sweeping, cleaning and scavenging work. There is no case for the Respondent that the vacancies in such posts were filled-up by permanent workers. So necessarily the concerned workers must have been working on sanctioned posts. The Apex Court has made a distinction of irregular and illegal appointments in the decision in *STATE OF KARNATAKA AND OTHERS VS. M.L. KESARI AND OTHERS* reported in 2010 9 SCC 247. It was held here that appointments of qualified persons made against sanctioned posts without following process of open competition are irregular appointments whereas appointments made not against sanctioned posts or appointments of unqualified persons are illegal appointments. Referring to Uma Devi's case it has been held that only irregular appointees are entitled to regularization in terms of the dictum laid down in Uma Devi case. In the present case, necessarily the concerned workmen must have been working on sanctioned posts. There is no case for the Respondent that any qualification has been prescribed for the post of cleaning and sweeping. They must have been doing the work for years and years together because they were competent to do the work. The engagement in any case could not be termed illegal. So the concerned workmen are entitled to regularization.

20. The schedule of reference is only regarding regularization. After the concerned workmen were denied work the petitioner seems to have raised dispute again but the Government has not referred the dispute. In any case the question of reinstatement can be decided by this Court since the denial of work was in violation of Section-33(1) of the Act. It amounted to termination from employment and the workmen are entitled to reinstatement and regularization in service also.

21. Kanagavel, one of the workmen concerned died after the dispute was raised. So far as this workman is concerned he would be deemed to have been regularized in service from 07.02.2011, the date on which the dispute was raised. He would be entitled to 50% of the salary payable to a regular workman from this date until the date of his death and other benefits if any due. The amount due to Kanagavel is payable to his legal heirs. So far as Arul Doss, the other workman is concerned, he shall be



reinstated and regularized in service w.e.f. 07.02.2011 within one month of the date of the award. He would be entitled to 50% of the salary payable to a permanent workman working in the same cadre until the date of the award. In case of failure to pay the amount within the prescribed time the Respondent is liable to pay interest @ 9% per annum.

22. The reference is answered in favour of the petitioner. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

#### Witnesses Examined:

For the 1st Party/ : WW1, Sri S. Aruldoss  
Petitioner Union : WW2, Sri K. P. Madhakrishnan  
For the 2nd Party/ : MW1, Smt. Raja Meenakshi  
Management

#### Documents Marked :

##### On the petitioner's side

Ex.No.	Date	Description
Ex.W1	19.06.2000 29.06.2000 05.06.2000 05.09.2000 01.07.2000 18.07.2000 03.08.2000 23.08.2000	Temporary Imprest of making payment to the labourers in Corporation Office
Ex.W2	-	Labour payment of wages for the period from 2001-2009
Ex.W3	-	Attendance Register
Ex.W4	-	Identity Card
Ex.W5	15.12.2010	Order in WP No. 23704/2010
Ex.W6	07.02.2011	Letter given to the 2nd Party to the 1st Party Union
Ex.W7	01.03.2011	Letter given to the 1st Party
Ex.W8	12.03.2011	Dispute raised by the 1st Party Union before the ALC
Ex.W9	27.08.2011	Counter Statement filed by the 2nd Party before the ALC
Ex.W10	27.09.2011	Rejoinder filed by the 1st Party
Ex.W11	18.06.2012	Failure report
Ex.W12	07.11.2012	Order of Reference
Ex.W13	02.04.2013	Letter given by the Government of India to the 1st Party
Ex.W14	-	Resolution
Ex.W15	-	Membership card photocopy
Ex.W16	-	Minutes (English Translation)

##### On the Management's side :

Ex.No.	Date	Description
Ex.M1	19.02.2010	Representation of Mr. S. Aruldoss to the 2nd Party
Ex.M2	01.03.2011	Reply to the representation by the 2nd Party
Ex.M3	01.03.2011	Reply to the representation by the 2nd Party.

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 307.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 74/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[ सं. एल-22012/222/2004-आईआर (सीएम-II) ]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 13th February, 2015

**S.O. 307.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 74/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 13/02/2015.

[No. L-22012/222/2004-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

**PRESENT :** Sri Pramod Kumar Mishra, Presiding Officer

#### REFERENCE NO. 74 OF 2005

#### PARTIES:

The management of Chinakuri Mine No. II, ECL

Vs.

Sri Etwari Bhuiya

#### REPRESENTATIVES:

For the management : Shri P. K. Das, Ld. Advocate

For the union (Workman) : Shri Rakesh Kumar, Gen. Secy, KMC

Industry : Coal State : West Bengal

Dated : 15.12.2014

**AWARD**

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/222/2004-IR(CM-II) dated 29.06.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

**SCHEDULE**

“Whether the action of the management of Chinakuri No. II, Sodepur Area of M/s. ECL in dismissing Sri Etwari Bhuiya from services w.e.f. 21.11.2003 is legal and justified? If not, to what relief the workman is entitled?”

Having received the Order No. L-22012/222/2004-IR(CM-II) dated 29.06.2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 74 of 2005 was registered on 17.08.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record I find that my predecessor (Late J. K. Sen, the then Presiding Officer) had reserved an award in this because Sri Rakesh Kumar, General Secretary of the union submitted that the case might be closed as the workman joined in service. Since the workman has joined in service and no more interested to proceed with the case further, the case is closed and accordingly a ‘No Dispute Award’ may be passed.

**ORDER**

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 308.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 45/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-20012/147/2011-आईआर (सीएम-I)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 13th February, 2015

**S.O. 308.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 13/02/2015.

[No. L-20012/147/2011-IR(CM-I)]

Md. ZAHID SHARIF, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD**

**PRESENT :** Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10  
(1)(d) of the I.D. Act, 1947

**REFERENCE NO. 45 OF 2012**

**PARTIES :** The Vice President,  
Janta Mazdoor Sangh, Vihar  
Building, Jharia, Dhanbad

**Vs.**

General Manager,  
Kusunda Area of M/s BCCL,  
PO : Kusunda, Distt : Dhanbad.

Ministry's Order No L-20012/147/  
2011-IR(CM-I) dt. 11.7.2012

**APPEARANCES :**

On behalf of the : Mr. K. N. Singh, Ld. Adv.  
Workman/Union :

On behalf of the : Mr. D. K. Verma, Ld. Adv.  
Management

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 26th, Dec., 2014

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10 (1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. 20012/147/2011-IR(CM-I) dt. 11.7.2012.

**SCHEDULE**

“Whether the action of the Management of East Bassuria Colliery in denial to pay compensation benefit in respect of Late Sanichar Mandal, Ex.M/ Loader is far and justified? If not, to what relief the concerned workman is entitled?”

2. The Union Representative did not appear nor any document filed on his behalf. Mr. D.K. Verma, Ld. Advocate for the OP/Management is present, though no documents on behalf of the OP/Management filed.

Mr. D.K. Vema, Ld. Advocate drawing my attention has submitted that the present reference is not maintainable under the I.D. Act, 1947, as it directly relates to an issue over non-payment of Compensation benefits concerning the Late Sanichar Mandal, Ex. M/Loader which comes under the provision of the Workmen's Compensation Act., 1923.

On perusal of the case record, I find that in fact the Schedule to the Reference relates to non-payment of compensation benefits regarding Late Ex./Loader, Sanichar Mandal East Bassuria Colliery where he met an accident on 11.10.2001 in harness, sustaining head injury and multiple injuries, and in course of his treatment. he died on 19.12.2008. In view of the nature of the occurrence revealed in the Written Statement filed on behalf of the Union Representative concerned, it comes under the provision of the Workmen's Compensation Act., 1923. Under these circumstances, it would be proper for dependant of the deceased workman to seek compensation benefits under the aforesaid Act. Hence, the Reference prima facie appears to be unmaintainable under the I.D. Act.

Accordingly the case is disposed of as unmaintainable before the Tribunal.

KISHORI RAM, Presiding Officer

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 309.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंगापुर एयरलाइन्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, मुंबई के पंचाट (संदर्भ संख्या 5/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-11012/22/2011-आईआर (सीएम-1)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 13th February, 2015

**S.O. 309.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 5/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the management of M/s. Singapore Airlines Limited and their workmen, received by the Central Government on 13/02/2015.

[No. L-11012/22/2011-IR(CM-I)]

Md. ZAHID SHARIF, Section Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI

**Present :** JUSTICE S. P. MEHROTRA, Presiding Officer

**REFERENCE NO. CGIT-1/5 OF 2012**

#### Parties :

Employers in relation to the management of Singapore Airlines Limited

**And**

Their workmen

#### Appearances :

For the first party/ : Mrs. Mitra Das, Adv.

Management Ms. Jayeta Das, Adv.

For the second party/ : Mr. M.B. Singh, Adv.  
Union

State : Maharashtra

Mumbai, dated the 26th day of November, 2014

#### AWARD

1. The present Reference has been made by the Central Government by its order dated 10.1.2012, passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of Reference as per the Schedule to the said order are as under:

“Whether the demands No.1 to 8 mentioned in the charter of Demands dated 15.3.2010 by the Singapore Airlines Employees Association, Mumbai against the management of M/s. Singapore Airlines Limited are legal, proper and justified? To what relief the workmen concerned are entitled and from which date?”

2. Pleadings have since been exchanged between the parties. Documents on behalf of the parties have also been filed. Hearing on the Interim Relief Application filed on behalf of the second party/Union concluded on 8.8.2014 and the order was reserved.

3. On 25.11.2014, an application was filed on behalf of the first party/Management, inter-alia, praying that the matter be taken on Board. Accordingly by the order dated 25.11.2014, the case was directed to be put on 26.11.2014 alongwith record.

4. Accordingly, the case has come up today. Mr. M.B. Singh, learned counsel for the second party/Union and Ms. Jayeta Das, learned counsel for the first party/Management are present.

5. An application has been filed today jointly on behalf of the first party/management and the second party/Union. It is, inter-alia, stated in the application that the Industrial

Dispute referred for adjudication, in the present Reference has been settled by the parties by Settlement dated 21.10.2014. It is, inter-alia, prayed in the application that the Tribunal may pass an Award in terms of the Settlement and dispose of the Reference as such. Copy of the said Settlement dated 21.10.2014 is annexed with the application.

6. Ms. Jayeta Das, learned counsel for the first party/ Management and Mr. M.B. Singh, learned counsel for the second party/Union state that in view of the averments made in the aforesaid application, the present Reference may be disposed of in terms of the Settlement dated 21.10.2014, copy whereof is annexed with the application, and the Award be passed in terms of the Settlement.

7. Having regard to the averments made in the aforesaid joint application filed today and in view of the statement made by the learned counsel for the parties, the Industrial Dispute forming the subject-matter of the Reference is decided in terms of the Settlement dated 21.10.2004, copy whereof is annexed to the aforesaid application.

8. The Reference is, therefore, answered by stating that the Industrial Dispute forming the subject-matter of the Reference is decided in terms of the Settlement dated 21.10.2014 arrived at between the parties, copy whereof has been filed as annexure to the aforesaid application.

Award is passed accordingly. Settlement dated 21.10.2014, copy whereof has been filed alongwith the aforesaid application, will form part of the Award.

Justice S. P. MEHROTRA, Presiding Officer

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 1 AT MUMBAI**

**REFERENCE NO. CGIT-5 OF 2012**

Employers in Relation to the Management of  
M/s. Singapore Airlines Ltd. ... First Party

**V/s.**

Their Workmen ... Second Party

Application for passing of award in terms of the settlement

**MAY IT PLEASE THIS HON'BLE TRIBUNAL**

The industrial dispute referred for adjudication in the present reference has been settled by the parties vide a settlement dated 21st October, 2014. Copy of the said settlement is annexed hereto.

The parties therefore pray that the Hon'ble tribunal be pleased to pass an award in terms of the settlement and dispose of the reference as such.

Dated this 26th day of November, 2014

—Sd—Illegible

Singapore Airlines Employees Association

—Sd—Illegible

Singapore Airlines Association

—Sd—Illegible

Advocates for the Workman

—Sd—Illegible

Advocates for the Employer

**MEMORANDUM OF SETTLEMENT**

**Names of Parties :**

1. Singapore Airlines Limited  
The Taj Mahal Tower & Palace Hotel  
Apollo Bunder  
Mumbai 400 001
2. Singapore Airlines Employees Association  
C/O Mr. Rodney Monteiro  
Olar Co-op Housing Society  
Flat No. 303, St Sebastian Road  
Bandra  
Mumbai 400 050

**REPRESENTING THE EMPLOYER**

1. David Lau  
Singapore Airlines Ltd.  
Mumbai

**REPRESENTING THE EMPLOYEES**

2. Rodney Monteiro  
General Secretary  
Singapore Airlines Employees Association  
Mumbai

**SHORT RECITAL**

That Singapore Airlines Limited (hereinafter referred to as "the Company") received the Charters of Demands dated 15 March, 2010 from the Singapore Airlines Employees Association, Mumbai (hereinafter referred to as "the Association") for and on behalf its members, the employees of Singapore Airlines Limited and Singapore Airlines Cargo Pt. Ltd. The Company, after making a detailed study of the said demands, invited the Association for negotiations. After holding negotiations on several occasions on the said Charter of Demands, the Company and the Association have arrived at an amicable settlement on the following terms and conditions: -

1. **PERIOD OF AGREEMENT**
  - 1.1 This Agreement shall come into effect on 01 April, 2010 and remain in force till 31 March, 2015
2. **GENERAL CONDITIONS OF SERVICE, SALARY, ALLOWANCES AND OTHER BENEFITS**
  - 2.1 The general conditions of service, salary and allowances, and other benefits shall be set out in Parts One and Two of the Agreement.



## GENERAL TERMS AND CONDITIONS OF SERVICE

## 1. EXCLUSIVESERVICE

1.1 An employee shall not, without the prior written permission of the Company, be engaged in any outside business or be employed in any capacity for any period by any person, government department, statutory board, firm, company or organisation other than the Company.

1.2 If an employee's family member(s) is engaged in any business which has dealings with the Company or any of its subsidiaries that could have the effect of putting the employee in a position of conflict of interest in the discharge of his duties towards the Company, he must inform the Company in writing as soon as possible.

## 2. PUBLICATIONS, INTERVIEWS, BROADCASTS, ETC.

2.1 The consent of the Company must be obtained before any employee may:

2.1.1 publish, or cause to be published or submit for publication any article, book, letter or photograph;

2.1.2 give any interview or disclose any information for publication;

2.1.3 broadcast or appear in television programmes;

2.1.4 deliver any lecture or speech;

2.1.5 exhibit or cause to be exhibited any cinematograph film; or any matter which concerns his duties or the business of the Company.

2.2 In the case of publication under clauses 2.1.1 to 2.1.5 not concerned with the Company, no mention may be made by the employee of his title or position in the Company, or his connection with the Company.

## 3. PRIVILEGE TRAVEL

3.1 Employees may apply for privilege travel on the Company services in accordance with the Company regulations in force from time to time.

## 4. UNIFORM

4.1 Employees who are required to wear uniform during duty hours will do so.

4.2 Uniform will be issued according to the Company's Uniform Manual and will remain the property of the Company.

4.3 Employees are responsible for keeping their uniform clean, presentable and in good condition.

4.4 Uniform shall not be worn when staff are off duty. Staff may, however, wear the uniform while travelling between their home and their place of duty and vice versa.

4.5 Employees leaving the services of the Company must return all items of uniform or pay the value of the unexpired life of any article which may have been lost. Such items may be deducted from the final payments due on termination of employment.

## 5. PROBATIONARY PERIOD

5.1 The period of probation will be six months subject to extension by the Company at its sole discretion for a period of further three months. The total period of probation shall not exceed nine months.

## 6. NOTICE FOR TERMINATION OF EMPLOYMENT

6.1 Termination of employment may be effected by either the Company or the employee in the following manner:

6.1.1 During probation:

(i) within the first three months of employment: without notice;

(ii) after the first three months of employment : 14 days notice in writing or payment of 14 days salary in lieu of notice; and

6.1.2 After confirmation:

(i) one month's notice in writing or by the payment of one month's salary in lieu of notice.

## 7. MISCONDUCT/PUNISHMENT/DISMISSAL

7.1 Any of the following acts or omissions on the part of any employee shall amount to misconduct;

7.1.1 wilful insubordination or disobedience, whether or not in combination with another, of any lawful and reasonable order of the superior;

7.1.2 going on illegal strike or abetting, inciting, instigating or acting in furtherance thereof;

7.1.3 wilful slowing down in performance of work or abetment or instigation thereof;

7.1.4 theft, fraud or dishonesty in connection with the Company's business or property;

7.1.5 taking or giving bribes or any illegal gratification;

7.1.6 habitual absence without leave or absence without leave for more than 10 consecutive days or overstaying the sanctioned leave without sufficient grounds or proper or satisfactory explanation;

7.1.7 late attendance on not less than four occasions in a month;

7.1.8 habitual breach of any law applicable to the Company or any rules made there under;

7.1.9 collection without the permission of the Company of any money within the premises of the Company

- except sanctioned by any law for the time being in force;
- 7.1.10 engaging in trade within the premises of the Company;
- 7.1.11 drunkenness, riotous, disorderly or indecent behaviour in the Company premises;
- 7.1.12 commission of any act subversive to discipline or good behaviour in the Company premises;
- 7.1.13 habitual neglect of work or gross or habitual negligence;
- 7.1.14 habitual breach of any rules or instructions for the maintenance and running of any department, or the maintenance of the cleanliness of any portion of the Company premises;
- 7.1.15 habitual commission of any act or omission for which a fine may be imposed under Payment of Wages Act 1936.
- 7.1.16 canvassing for Union membership or the collection of Union dues within the Company premises, except in accordance with any law or with the permission of the Company;
- 7.1.17 wilful damage to any Company property;
- 7.1.18 holding meetings in the Company premises, without the prior permission of the Company or except in accordance with any law for the time being in force;
- 7.1.19 disclosing to any unauthorised person any information in regard to the process of the Company which may come to the possession of the employee in the course of his work;
- 7.1.20 gambling within the Company premises;
- 7.1.21 smoking or spitting in the Company premises where it is prohibited by the Company;
- 7.1.22 failure to observe safety instruction notified by the Company or interference with any safety device or equipment installed by the Company;
- 7.1.23 distributing or exhibiting within the Company premises handbills, pamphlets and such other things or causing to be displayed by means of signs or writing of other visible representation on any matter without prior sanction of the company;
- 7.1.24 refused to accept a charge sheet, order or other communication served in accordance with the Standing Orders; and
- 7.1.25 unauthorised possession of any lethal weapon in the Company premises.

**Explanation:** No act of misconduct, which is committed on less than three occasions within the space of one year, shall be treated as habitual.

- 7.2 An employee guilty of misconduct may be:
- 7.2.1 warned or censured; or
- 7.2.2 fined, subject to and in accordance with the provision of the Payment of Wages Act 1936; or
- 7.2.3 suspended by an order in writing from the Company for a period not exceeding four days; or
- 7.2.4 dismissed without notice.
- 7.3 No order under 7.2.3 shall be made unless the employee concerned has been, informed in writing of the alleged misconduct or given an opportunity to explain the circumstances alleged against him.
- 7.4 No order or dismissal under 7.2.4 shall be made except holding an enquiry against the employee concerned in respect of the alleged misconduct in the manner set out in clause 7.5.
- 7.5 An employee against whom an enquiry is proposed to be held shall be given a charge sheet, clearly setting forth the circumstances appearing against him and requiring his explanation. He shall be permitted to defend himself or shall be permitted to be defended by an employee working in the same department as himself or by any office bearer of the Association. Except for reasons to be recorded in writing by the Enquiry Officer, the employee shall be permitted to produce witness in his defence and cross examine any witness on whose evidence the charges rest. A concise summary of the evidence from both sides and the employee's pleas shall be recorded.
- 7.6 All proceedings of the enquiry shall be conducted in English.
- 7.7 The enquiry shall be completed within a period of 3 months. Provided that the period of 3 months may for reasons to be recorded in writing, be extended to such further period as may be deemed necessary by the Enquiry Officer.
- 7.8 An employee against whom any action is proposed to be taken under clauses 7.2.2 to 7.2.4 may be suspended pending the enquiry or for the period, if any, allowed to him for giving his explanation. The order of suspension may take effect immediately on its communication to the employee.
- 7.8.1 Subject to the provision of the Payment of Wages Act 1936, an employee who is placed under suspension shall, during the period of suspension, be paid a subsistence allowance at the following rates:
- (i) for the first ninety days of the suspension period, the employee will be paid on  $\frac{1}{2}$  of

- the basic salary and allowances. However, the Shift Allowance and Uniform Laundry Allowance will not be paid;
- (ii) If the enquiry gets prolonged and in case the employee continues to be under suspension for the period exceeding 90 days, he will be paid  $\frac{3}{4}$  basic pay and allowances. However, the Shift Allowance and Uniform Laundry Allowance will not be paid.
- (iii) If the enquiry is not completed within a period of 180 days the employee will be paid full basic pay and allowances. However, Shift Allowance and the Uniform Laundry Allowance will not be paid.
- 7.8.2 Provided that where the findings of the enquiry officer show that such enquiry is prolonged beyond a period of 90 days, or as the case be 180 days, for reasons directly attributable to the employee, the subsistence allowance to be paid per month shall be for the period exceeding 90 days, or as the case may be 180 days, be reduced to  $\frac{1}{2}$  basic pay and allowances.
- 7.8.3 If, as a result of the enquiry held or explanations tendered, it is decided not to take any action against the employee under Clause 7.2 the employee shall be deemed to have been on duty and shall be entitled to full wages minus such subsistence allowance as he may already have drawn and to all other privileges for the full period of suspension.
- 7.8.4 The payment of subsistence allowance under Clause 7.8.1 shall be subject to the employee concerned not taking up any employment during the period of subsistence.
- 7.9 In awarding the punishment under this standing order, the Company shall take into account the gravity of the misconduct, previous record if any of the employee, and any other extenuating or aggravating circumstances that may exist.
- 7.10 If an employee refuses to accept a charge sheet order or other communication served in accordance with the Standing Order and provided that he has been asked to accept the charge sheet in the presence of at least 2 witnesses, he shall be told verbally the time and place at which the enquiry into his alleged misconduct is to be held, and if he refuses or fails to attend at that time, the enquiry shall be conducted ex-parte and the punishment awarded shall take into account the misconduct under Standing Order 22 thus committed.
- 7.11 An employee may be warned, censured or fined for any of the following acts and omissions:
- 7.11.1 absence without leave without sufficient cause;
- 7.11.2 late attendance;
- 7.11.3 negligence in performance of duties; .
- 7.11.4 neglect of work;
- 7.11.5 absence without leave or without sufficient cause from the appointed place of work;
- 7.11.6 entering or leaving, or attempting to enter or leave the Company premises except by a gate or entrance appointed;
- 7.11.7 committing a nuisance on the Company premises;
- 7.11.8 breach of any rule or instruction for maintenance or running of any department.
- Provided that no employee shall be fined, except in accordance with the provisions of the Payment of Wages Act 1936, where the provisions of the said Act are applicable to him.
8. WORKING HOURS
- 8.1 The normal hours of work will not exceed thirty-eight hours and forty-five minutes per week excluding meal breaks. These hours of work will be distributed over five days a week with two days in each week being days off. It shall be the absolute discretion of the Company to specify the exact working hours, depending upon operational requirements. In the case of employees working on shift basis, the length of each working week may vary according to the particular shift roster, but on an average, each employee will be required to complete 38 hours and 45 minutes over the course of the complete shift cycle.
- 8.2 No employee shall be eligible to receive wages 'if he fails to report for duty for any reason other than approved leave or paid holidays.
- 8.3 An employee will work in excess of the normal working hours when required to do so by the Company subject to the payment of Overtime for the extended hours worked.
- 8.4 Overtime will be calculated at twice the basic hourly rate of work The hourly rate will be calculated as follows,
- $$\frac{\text{Basic Salary per month} \times 12 \text{ months}}{52 \text{ weeks} \times 38 \text{ hours and 45 minutes}}$$
- 8.5 Employees will be required to enter their starting and finishing time of work, on each occasion, in an attendance register kept for this purpose. Time in excess of normal working hours has to be certified in the register as being required for company duty by the departmental head concerned.

8.6 Employees working in excess of half an hour from their rostered time off, shall be entitled to overtime payment from the rostered time off.

#### 9. WORKING ON A WEEKLY DAY OFF

9.1 If an employee is required to work on his scheduled day off, he will be given a day off in lieu within 21 days, If this is not possible, he will be paid overtime at twice the basic hourly rate subject to a minimum guaranteed four hours.

#### 10. WORKING ON PUBLIC/NATIONAL HOLIDAY FALLING ON A OFF DAY

10.1 If an employee is required to work on his scheduled off day which is also a Public/National holiday for the station, he will be given two days off in lieu within twenty-one days. If this is not possible, he will be paid overtime at twice the basic hourly rate for that day and be given a day off. Overtime will be paid subject to a minimum guaranteed four hours.

#### 11. WORKING ON PUBLIC/NATIONAL HOLIDAY

11.1 If an employee is required to work on a Public/ National holiday he will be given a day off in lieu within twenty one days. If this is not possible he will be paid overtime at twice the basic hourly rate, subject to a minimum guaranteed four hours.

#### 12. ROSTERED DUTIES

12.1 The roster will be published two weeks in advance for a period of four weeks. It can, however, be changed by giving twenty-four hours notice. For operational exigencies for e.g. aircraft diversions, or return to base, no notice of change need be given.

12.2 There will be a minimum of twelve hours break between shifts. If an employee is required to report for duty before he has had this break of twelve hours, he will be entitled for overtime payment for the hours that fall short of the full break.

12.3 An employee who is required to work continuously for 17 hours or more will be paid overtime for the extended hours worked, be given a break of 12 hours and a compensatory off within 21 days.

#### 13. PUBLIC HOLIDAYS

13.1 Employees will be granted fifteen public holidays in a calendar year. The list of public holidays will be drawn up with the Association before the commencement of the year. In case the Government announces any additional holidays under the Negotiable Instruments Act, employees will be granted that holiday.

#### 14. ANNUAL LEAVE

14.1 Annual leave will be granted on the following basis and will be taken in accordance with the following regulations:

14.1.1 For employees with up to 5 years service 17 working days

14.1.2 For employees with more than 5 years service 20 working days

14.1.3 For employees with more than 15 years service 23 working days

14.2 Annual leave must be taken in the calendar year in which it is earned. Leave not utilised by the end of the calendar year will lapse unless it was not taken at the Company's request. In such cases and provided prior approval is obtained from the General Manager or State Manager, the leave may be carried forward to the following year to be cleared by 31 March.

#### 15. CASUAL LEAVE

15.1 An employee will be entitled to paid Casual leave up to 9 days in a calendar year, but not more than 2 days at a time.

15.2 Casual leave shall be non-cumulative and no leave of any kind may be combined with Casual Leave.

15.3 Casual leave is intended to meet special or unforeseen circumstances for which provision cannot be made by exact rules.

15.4 The previous permission of the Department Head must be taken in writing before Casual leave is taken, but when this is not possible, information should be given on the telephone.

#### 16. SICK LEAVE

16.1 An employee will be eligible for sick leave on full salary up to a maximum of 12 working days in one calendar year. Sick leave may be accumulated up to a maximum of 90 working days.

16.2 Sick leave taken for two or more working days must be supported by a certificate from the Company-appointed doctor.

#### 17. MATERNITY LEAVE

17.1 All female employees will be entitled to maternity leave as per the provisions of Maternity Benefit Act - 1961 and the amendments made to it thereafter.

#### 18. MEDICAL TREATMENT (DOMICILIARY)

18.1 Employees can opt for one of two schemes:

18.1.1 **Scheme 1** : Full reimbursement for the employee only, for the cost of medical treatment received from Company-appointed doctors.



- 18.1.2 **Scheme 2** : Reimbursement, for the employee, spouse and dependent children, for the cost of medical treatment received from Company-appointed doctors subject to a maximum limit of Rs. 8,500 per annum for staff, and Rs. 2,500 per annum each for spouse and two dependent children.
- 18.2 Medical treatment shall consist of consultation fees, including specialist's fees, the cost of any tests/investigations required for the diagnosis of the illness, and medicines prescribed by the doctors. This will also include the Company-appointed doctors' visiting fees.
- 18.3 The employee shall exercise the option once a year. Once exercised, the option cannot be changed for a period of 12 months.
- 18.4 The Company shall not be responsible for the payment of any expenses arising from :
- 18.4.1 all medical, surgical, optical and dental appliances including spectacles and eye glasses, dentures and similar appliances;
- 18.4.2 pregnancy, confinement or miscarriage;
- 18.4.3 illness or disablement arising from attempted suicide, the performance of an unlawful act, provoked assault, the use of drugs other than those prescribed by the Company's doctor;
- 18.4.4 treatment of medicines where these become necessary as a result of the misconduct or negligence on the part of an employee or in the case of an employee who refuses to undergo treatment as prescribed by the Company doctor.
19. **DENTAL TREATMENT**
- 19.1 Employees shall be reimbursed the cost of dental treatment which they may receive from Company-appointed dentists. This consists of consultation fees, including specialist's fees, the cost of any tests/investigations required for the diagnosis of the illness, and medicines prescribed by the dentist.
- 19.2 Dental treatment includes cleaning, scaling, filling, extraction, root canal treatment, gum surgery etc. It excludes capping, bridging, dentures and other dental appliances.
20. **MEDICAL TREATMENT (HOSPITALISATION)**
- 20.1 All employees are covered for hospitalisation by an insurance policy with the premium of which will be paid for by the Company. In the case of married employees, the Company will pay fifty percent of the premium for the employees' spouse and dependent children. The balance fifty percent will be paid by the employee himself.

- 20.2 For employees in Grades III, the maximum sum insured will be RS.200,000. With effect from the next date of renewal the sum insured will increase to RS.300,000 (subject to renewal of the policy by the insurance company).
- 20.3 For employees in Grades IV and V, the maximum sum insured will be Rs.250,000. With effect from the next date of renewal of the said policies the sum insured will be revised to Rs.350,000 (subject to renewal of the policy by the insurance company).
21. **PERSONAL ACCIDENT INSURANCE**
- 21.1 All employees are covered for hospitalisation by a Personal Accident Insurance Policy, the premium of which will be paid by the Company.
- 21.2 The sum insured for each employee will be twice the annual salary of each employee (at the time of renewal).
22. **EMPLOYEES' PROVIDENT FUND**
- 22.1 Employees who are members of the Employees' Provident Fund will be eligible for the benefits as per the rules of the Fund.
23. **RETIREMENT**
- 23.1 The retirement age is 58 years for both male and female employees.

## PART TWO

### SALARY, ALLOWANCES & OTHER SERVICE CONDITIONS

1. **SALARY SCALES**
- 1.1 Salaries for each position will be paid in accordance with the salary scales set out in Annexure 1,
2. **ANNUAL INCREMENTS**
- 2.1 Employees will be granted annual increments on 01 April each year, amounting to 4% of their basic salary as at 31 March.
3. **BASIC SALARY REVISION**
- 3.1 Employees will be granted a Cost of Living Adjustment (COLA) for the duration of this agreement as per the table below:
- | Date        | COLA<br>(% of 31 March basic pay) |
|-------------|-----------------------------------|
| 01 April 10 | 9.85                              |
| 01 April 11 | 8.71                              |
| 01 April 12 | 8.31                              |
| 01 April 13 | 11.06                             |
| 01 April 14 | 9.95                              |
- 3.2 The Cost of Living Adjustment (COLA) will be based on a weighted average of CPI of 05 on-line metros

(BOM, BLR, CCU, DEL & MM), using staff strength as variable. .

#### 4. TRANSPORT SUBSIDY

Transport subsidy will be paid as per the table below:

Grade	01 April 2010		01 April 2011 onwards	
	Town	Traffic	Town	Traffic
3	3550	6250	4250	7500
4	3680	6370	4400	7640
5	3800	6500	4550	7800
5A	3900	6600	4680	7900

#### 5. HOUSE RENT ALLOWANCE :

5.1 All employees will be entitled to receive a House Rent Allowance amounting to 10% of their basic pay

#### 6. SHIFT ALLOWANCE :

6.1 Employees who are rostered for shift duties will be paid a single rate Shift Allowance with effect from 01 April 2010.

6.1.1 The Shift Allowance replaces the Night Shift Allowance and the Work Through Break Allowance, which will cease to be paid from the same date.

6.2 The Shift Allowance will be paid on the following basis:

6.2.1 FY10/11, FY11/12 & FY12/13 : RS.1 000 per month X 11 months for each year

6.2.2 Effective 01 April 13, the Shift Allowance will increase to Rs.2,500 per month;

6.2.3 Effective 01 April 14, the Shift Allowance will increase to RS.3,000 per month

#### 7. UNIFORM LAUNDRY ALLOWANCE:

7.1 Effective 01 April 2010, employees who are required to wear uniforms will be paid a Uniform Laundry Allowance of Rs.700 per month towards the cost of laundering their uniforms.

7.2 Staff will not be paid the Uniform Laundry Allowance when they are on annual leave.

#### 8. ACTING ALLOWANCE

8.1 When an employee is absent for a period exceeding 5 working days, the Company may at its discretion appoint an employee in a lower grade to act for the absent employee. The junior employee will be entitled to an Acting Allowance provided he takes over the full responsibilities and duties of the senior employee and acts for a period of at least 5 consecutive working days. The Acting Allowance

payable will be 6% of the junior employee's monthly basic salary pro-rated for the number of days applicable.

#### 9. BONUS

9.1 Employees will be paid an annual bonus in accordance with the law.

#### 10. GRATUITY

10.1 Gratuity will be payable to all employees as per the provisions of The Payment of Gratuity Act, 1972 and the amendments made thereafter.

#### 11. RECOVERY OF OVERPAYMENT OF SALARY AND ALLOWANCES

11.1 In the event of excess payment of salary and allowances, owing to

11.2 Cashier error

11.3 Error in calculation

11.4 Sick leave and annual leave taken in excess of entitlement the Company shall recover the same from the employee's future wages. However, the deduction should be effected within 01 year from the date of excess payment. ~

#### 12. CHANGES IN ALLOWANCES AND BONUSES AND SUCH OTHER PAYMENTS AS REQUIRED BY LEGISLATION

12.1 The Company agrees to make such changes to the allowances, bonuses, and such other payments as may be required by legislation.

12.2 In the event that an employee resigns from the services of the Company he will receive arrears which are due to him from the date of termination of employment, in accordance with the law.

#### 13. EXISTING BENEFITS AND PRIVILEGES

13.1 All existing benefits, privileges, payments and allowances not covered in this Agreement in Parts One and Two shall not be changed without prior agreement with the Association in writing.

#### 14. GENERAL

14.1 The parties shall jointly file the present Settlement Agreement before the Hon'ble Central Government Industrial Tribunal, Mumbai with a request to pass an award in I.D. Ref No. CGIT-1/5 of 2012 in terms of this Settlement Agreement.

14.2.1 The Association agrees not to make any other demands other than those contained herein pursuant to the Charter of Demand dated 15 March 2010, during the tenure of this agreement. The demands which have not been settled by this

settlement and contained in the Charter of Demands, are hereby withdrawn by the Association.

This agreement is signed at Mumbai on the twenty-first day of October Two Thousand and Fourteen.

David Lau  
General Manager India  
Singapore Airlines Limited  
(For & on behalf of the Employer)

Rodney Monteiro  
General Secretary  
Singapore Airlines  
Employees Association,  
(For & on behalf of the Employees)

#### WITNESSES:

1. —Sd—Illegible
2. —Sd—Illegible

#### ANNEXURE 1

1. Salary Ranges with effect from 01 April 2010.

		Salary Ranges	
Grade	Title	(Rs/pm)	
		Min	Max
1	Office Helper	14,203	35,308
2	Clerk	17,717	44,293
3	Jr Agent/Clerk (Customer Service, Reservations, Accounts, Sales & Marketing)	22,519	56,300
4	Agent (Customer Service, Reservations, Accounts, Sales & Marketing)	25,981	64,950
5	Officer (Customer Service, Reservations, Accounts, Sales & Marketing)	33,085	82,700
2.	Salary Ranges with effect from 01 April 2013.		
3	Jr Agent/Clerk (Customer Service, Reservations, Accounts, Sales & Marketing)	25,000	62,500
4	Agent (Customer Service, Reservations, Accounts, Sales & Marketing)	33,000	82,500
5	Officer (Customer Service, Reservations, Accounts, Sales & Marketing)	40,000	100,000

5A Sr Officer  
(Customer Service, Reservations, Accounts, Sales & Marketing) 45,000 112,500

नई दिल्ली, 13 फरवरी, 2015

**का.आ. 310.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ब्रिटिश एयरवेज के प्रबंधन के संबंध में निर्विवाद औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 100/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-11012/36/2014-आईआर (सीएम-1)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 13th February, 2015

**S.O. 310.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 100/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of M/s. British Airways and their workmen, received by the Central Government on 13/02/2015.

[No. L-11012/36/2014-IR(CM-I)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 8th December, 2014

**Present :** K.P. PRASANNA KUMARI,  
Presiding Officer

#### Industrial Dispute No. 100/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of British Airways and their workman)

#### BETWEEN

Sri Ramesh Thangadurai : 1st Party/Petitioner

#### AND

The Regional HR Management : 2nd Party/Respondent  
British Airways  
South Asia, DLF Plaza Tower  
DLF City, Phase-I  
Gurgaon-122022

**Appearance :**

For the 1 st Party/1st Petitioner : None  
 For the 2nd Party/Respondent : None

**AWARD**

The Central Government, Ministry of Labour & Employment vide its Order No. L-11 012/36/2014-IR (CM.I) dated 27.10.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of British Airways regarding termination of the service of the petitioner, Sri Ramesh Thangadurai is justifiable or not? To what relief the concerned workman is entitled to?

2. The petitioner has entered appearance in the ID on notice.

3. The petitioner does not want to proceed with the ID as a similar matter filed by him directly on the same subject is pending before this Tribunal as ID 92/2014. The petitioner has made endorsement to this effect. So there is no need to proceed with this ID.

4. Accordingly the ID is closed. An award is passed to this effect.

K.P. PRASANNA KUMARI, Presiding Officer

**Witnesses Examined :**

For the 1 st Party/Petitioner : None  
 For the 2nd Party/Management : None

**Documents marked:****On the petitioner's side**

Ex.No.	Date	Description
	N/A	

**On the Management's side**

EEx.No.	Date	Description
	N/A	

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 311.**—भारतीय रेल अधिनियम, 1989 (1989 का 24) की धारा 136 के अंतर्गत रेल कर्मचारी (कार्य के घंटे और विश्राम की अवधि) नियमावली, 2005 के नियम 4(2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा श्रम एवं रोजगार मंत्रालय में संयुक्त सचिव, श्री मनीष गुप्ता को उक्त नियमावली के अंतर्गत अपीलों की सुनवाई करने के लिए अपीलीय प्राधिकारी के रूप में अधिसूचित करती है। यह सरकारी राजपत्र में इसके प्रकाशन की तारीख से प्रभावी होगी।

[फा. सं. जैड-20025/06/2006-सीएलएस-1]

बाबू चेरियन, निदेशक

New Delhi, the 16th February, 2015

**S.O. 311.**—In exercise of the powers conferred by Rule 4(2) of Railway Servants (Hours of Work and Period of Rest) Rules, 2005 under Section 136 of the Indian Railways Act, 1989 (24 of 1989), the Central Government hereby notifies Shri Manish Gupta, Joint Secretary in the Ministry of Labour and Employment as the Appellate Authority to hear Appeals under the said Rules. This will take effect from the date of its publication in the Official Gazette.

[F.No. Z-20025/06/2006-CLS-I]

BABU CHERIAN, Director

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 312.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वीओम नेटवर्क्स लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्णाकुलम के पंचाट (संदर्भ संख्या 12/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-42012/181/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th February, 2015

**S.O. 312.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 12/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Viom Networks Ltd. and their workman, which was received by the Central Government on 13/02/2015.

[No. L-42012/181/2012-IR (DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
 INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
 ERNAKULAM**

**Present :** Shri D. Sreevallabhan, B.Sc., LL.B,  
 Presiding Officer

(Friday the 23rd day of January, 2015/03rd Magha 1936)

**ID 12/2013**

**Workman :** Ms. Dhanyamol  
 Ennakal House, Edayakunnam  
 South Chittoor PO  
 ERNAKULAM - 682027  
 By Shri Adv. Renil Anto  
 Kandamkulathy



**Managements :** 1. The Vice Chairman  
Viom Networks Ltd.  
Southern Park, Saket Palace  
Saket  
New Delhi-110017

2. The Circle Head  
Viom Networks Ltd.  
J & CO. Chamber  
Manimala Road, Edappally  
COCHIN -24

By M/s.Menon & Pai

This case coming up for final hearing on 21.01.2015 and this Tribunal-cum-Labour Court on 23.01.2015 passed the following:

### AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India/Ministry of Labour vide its Order No-L-420 12/181/20 12-IR(DU) dated 07.02.2013 referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

“Whether the action of the management of Viom Networks Ltd., in terminating the services of Ms.Dhanyamol w.e.f.19.05.2012 is justified? To what relief the workman concerned is entitled to?”

3. After appearance of the parties and submission of pleadings the case was posted in the Lok Adalath as agreed to by both parties. There was a full and final settlement of the dispute between the parties. They have jointly filed compromise. There is nothing illegal in accepting the compromise. Hence the compromise can be accepted and an award can be passed in terms of the compromise.

4. In the result an award is passed in terms of the compromise which will form part of this award.

The award will come into force one month after its publication in the Official Gazette.

D. SREEVALLABHAN, Presiding Officer

### APPENDIX

NIL

**IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

**ID No. 12/2013**

Smt Dhanyamol  
Ennakal House

Edayakunna  
South Chittoor P.O  
Kochi ... Workman

**Vs.**

The Vice Chairman,  
Viom Networks Ltd,  
South Park, Saket Palace,  
New Delhi ...Management

The matter was taken up in Lok Adalat and the parties agreed to settle the dispute on the following terms:-

1. The management agrees to pay Rupees 83,088/- towards the full and final settlement of the claim raised in ID 12 of 2013 within three weeks from the date of publication of award in the official gazette.
2. The workman agrees to accept the same as full and final settlement and the workman also hereby undertakes that she will not raise any claim relating to the above industrial dispute now settled.

Dated this the 14th day of January, 2015.

Workman: Sd/- Management: Sd/-

Counsel of Workman: Sd/- Counsel for Management : Sd/-

Sd/-

Mediator

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 313.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वीओम नेटवर्क्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्णाकुलम के पंचाट (संदर्भ संख्या 11/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-42012/182/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th February, 2015

**S.O. 313.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D.Case No. 11/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Viom Networks Ltd. and their workman, which was received by the Central Government on 13/02/2015.

[No.L-42012/182/2012-IR (DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
ERNAKULAM**

**Present :** Shri D.Sreevallabhan, B.Sc., LL.B,  
Presiding Officer

(Friday the 23rd day of January, 2015/03rd Magha 1936)

**ID 11/2013**

- Workman :** Smt. Shiji Mukesh  
Raj Nivas  
South Thamaraparambu  
Kochi (Kerala)
- By Shri Adv. Renil Anto  
Kandamkulathy
- Managements :** 1. The Vice Chairman  
Viom Networks Ltd.  
Southern Park, Saket Palace  
Saket  
New Delhi-110017
2. The Circle Head  
Viom Networks Ltd.  
J & CO. Chamber  
Manimala Road, Edappally  
Cochin -24
- By M/s. Menon & Pai

This case coming up for final hearing on 21.01.2015 and this Tribunal-cum-Labour Court on 23.01.2015 passed the following:

**AWARD**

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India/Ministry of Labour vide its Order No-L-42012/182/2012-IR(DU) dated 07.02.2013 referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

“Whether the action of the management of Viom Networks Ltd., in terminating the services of Ms. Shiji w.e.f.19.05.2012 is justified? To what relief the workman concerned is entitled to?”

3. After appearance of the parties and submission of pleadings the case was posted in the Lok Adalath as agreed to by both parties. There was a full and final settlement of the dispute between the parties. They have jointly filed compromise. There is nothing illegal in accepting the compromise. Hence the compromise can be accepted and an award can be passed in terms of the compromise.

4. In the result an award is passed in terms of the compromise which will form part of this award.

The award will come into force one month after its publication in the Official Gazette.

D. SREEVALLABHAN, Presiding Officer

**APPENDIX**

NIL

**IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

**ID No. 11/2013**

Smt. Shiji Mukesh  
Raj Nivas  
South Thamaraparambu  
Kochi ... Workman

**Vs.**

The Vice Chairman,  
Viom Networks Ltd,  
South Park, Saket Palace,  
New Delhi ...Management

The matter was taken up in Lok Adalat and the parties agreed to settle the dispute on the following terms:-

1. The management agrees to pay Rupees 1,09,764/- towards the full and final settlement of the claim raised in ID 11 of 2013 within three weeks from the date of publication of award in the official gazette.
2. The workman agrees to accept the same as full and final settlement and the workman also hereby undertakes that she will not raise any claim in future except as to payment of gratuity amount.

Dated this the 14th day of January, 2015.

Workman: Sd/- Management: Sd/-

Counsel of Workman: Sd/- Counsel for Management : Sd/-

Sd/-

Mediator

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 314.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबंध में निरिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 109/05) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/29/2005-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th February, 2015

**S.O. 314.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 109/05) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 13/02/2015.

[No. L-12012/29/2005-IR (B-I)]

SUMATI SAKLANI, Section Officer

# ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/109/05**

Shri Anil Goswami  
S/o Shri Dangiri Goswami,  
H.No. Sachidanad Nagar,  
Raisen Road,,  
Bhopal

...Workman

### Versus

Deputy General Manager,  
State Bank of India,  
Zonal Office, Hamidia Road,  
Bhopal (MP)

...Management

### AWARD

Passed on this 17th day of November, 2014

1. As per letter dated 29-9-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-12012/29/2005-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of Dy. General Manager, State Bank of India, Bhopal in terminating the service of Shri Anil Goswami S/o Dangiri Goswami w.e.f. 16-10-99 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/6. Case of workman is that workman was engaged as temporary messenger at Chhola Road branch from 15-10-84 to 19-1-1985. As per bipartite settlement dated 17-11-87, the temporary employees working as messenger, peon, sweeper etc. were to be given opportunity for permanent absorption who had completed 240 days in 36 calendar months or worked for 270 days in any calendar year or worked 70 days in 36 calendar months during 1-7-75 to 31-7-88. It is submitted that workman had worked 71 days in Chhola Road Branch. The advertisement

was issued on 1-8-88, workman had submitted application for permanent appointment. He was called for interview on 21-9-89 in Regional Office, Bhopal. He was interviewed on said day. That he was included in the panel list. During 19-4-93 to 24-5-93, he was engaged in Vindyanchal branch by the Bank. On the basis of his name in select list, he was informed vide letter dated 19-1-94 about his appointment in the bank.

3. Workman further submits that from 9-3-94 to 16-6-94, he was engaged as messenger at Barkheda branch Bhopal. From 23-1-95 he was engaged at Mahavir Nagar Branch Bhopal but he was not given appointment letter. As per letter dated 16-2-97, workman submitted application for issuing interview call. Workman was informed that he was interviewed in 1989. It was not necessary to again interview him.

4. Workman submits that as per letter dated 7-2-97, he was present for interview on 19-2-97. However workman was not interviewed after asking some questions. Workman is discontinued from 16-10-97. He was paid amount of Rs. 11,295/-. Said amount was received by him under protest. Workman submits that termination of his service is illegal, for violation of bipartite settlement dated 17-11-87. His selection after interview dated 20-9-89 he had worked in the Bank during the period 19-4-93 to 24-5-93, 31-5-95 to 16-10-99 about 5 years. Workman completed 240 days continuous service. His services were terminated forcibly is illegal. On such ground, workman prays for his reinstatement with back wages.

5. IInd party filed Written Statement at Page 10/1 to 10/6 with its translation in Hindi at Page 9/1 to 9/12. IInd party raised preliminary objection that representative of Union Shri R. Nagwanshi is a dismissed employee of Bank is not competent to raise dispute. IInd party further submits that workman was engaged on contract basis for 71 days in 1984 to 1985 by Branch Manager, Mahaveer Nagar Branch. Workman was engaged for 4 years, 8 months, 23 days as per exigencies. Workman was paid wages allowances. Workman is not covered as workman is not entitled to status of regular employees. The discontinuation of workman is not covered as retrenchment under Section 2(oo) of I.D. Act.

6. IInd party denied that workman completed 240 days continuous service during any of the year. The services of workman engaged on daily wages ended at end of the day. Workman was at liberty to work anywhere as per Bipartite Settlement dated 17-11-87, 16-7-88, 28-10-88, 9-1-91. Workman was given opportunity for regular appointment. Workman could not be given regular appointment considering his working days were less. Workman was found not suitable for appointment after his interview. Reiterating above contentions, IInd party submits that workman had worked only for 71 days, his name was at lower stage of the list. Workman was given

opportunity for interview as per above settlement. However he could not be permanently appointed as name of workman was at lower stage. Workman was paid retrenchment compensation Rs. 2160/- in compliance of Section 25-F. amount of Rs. 1503/- was paid considering his working days. On above contentions, IInd party submits that it has not committed any illegality in discontinuing the workman. On such contentions, IInd party prays for rejection of claim.

7. Workman filed rejoinder reiterating his contentions in statement of claim.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |      |  |                     |
|------|--|---------------------|
| (i)  | “ Whether the action of the management of Dy.General Manager, State Bank of India, Bhopal in terminating the service of Shri Anil Goswami S/o Dangiri Goswami w.e.f. 16-10-99 is justified?” | Partly in Negative  |
| (ii) | If not, what relief the workman is entitled to?”   | As per final order. |

#### REASONS

9. As per terms of reference, legality of termination of services of workman is referred for adjudication. Terms of reference do not include claim for regularization of workman. Workman has contented that his services are terminated illegally. He was forcibly terminated from service paying amount of Rs. 1561/-. IInd party has pleaded that workman was paid amount of retrenchment compensation Rs. 2160/- and Rs. 1503/-. Thus payment of amount by IInd party before termination of services of workman is not in dispute.

10. Workman filed affidavit of his evidence. He has stated that as per bipartite settlement dated 17-11-87, he worked for 71 days in the bank during 15-10-84 to 19-1-87. He was called for interview on 21-9-89. He was interviewed on the day after his name was included in panel list. After 4 years he was engaged in Vindyanchal branch on 19-4-93 as messenger. That he was engaged in Barkheda branch of SBI as messenger from 9-3-94 to 16-6-94 and in Mahavir Nagar branch from 23-1-95 till date of his discontinuation. He was not called for interview on 19-2-97 for the reasons that he was interviewed in the year 1989. In Para-15 of his affidavit, workman has stated that forcibly retrenchment compensation Rs. 11,295/- was paid to him by Cheque No. 278028. He further states that employees working for less period were continued in the bank. However said evidence of workman finds no reference in his statement of claim. The statement of claim filed by workman is silent about continuing employees working less number of days

or violation of Section 25-G of I.D.Act. In para 17/3 of statement of claim, workman has pleaded that employees working less number of days were given appointments. In his cross-examination, workman says during October 84 to January 85, he worked for 71 days. On its basis, he was interviewed on 21-9-89, appointment letter was not given to him. Employee working less number of days were given appointment letters during 23-1-95 to 16-10-99, he worked for 4 years, 8 months, 23 days. Even at that time, appointment letter was not given to him as his name was included he was not called for interview. He denies that he was taken on work because of his acquaintance. Workman admits receipt of retrenchment compensation Rs. 2160/- and one months pay Rs. 1530/-. The evidence of workman shows that he was paid retrenchment compensation and pay in lieu of notice.

11. Management's witness Shri R.S.Mathur in his affidavit of evidence supports contentions of management that workman was working for 71 days, therefore he was called for interview. Workman worked for 4 years, 8 months, 23 days from January 95 to October 99. The evidence of management's witness further shows workman was paid amount of Rs. 11,295/- towards pay in lieu of notice and retrenchment compensation. There is no cross-examination on said point. Workman has pleaded and stated in his evidence that employees working less number of days were given appointments. Management's witness in his cross-examination claims ignorance whether seniority list of retrenched employee was displayed on notice board. Even pleading of IInd party on above point are silent. During course of argument, learned counsel for IInd party Mr. Tripathi pointed out my attention to Bipartite Settlement Exhibit M-1 to M-6. Employees working minimum 30 days aggregate in any calendar year after 1-7-75 or 70 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-75 are eligible for absorption for permanent appointment. The workman fulfills above condition. The Bipartite settlement further provides for conducting interviews. The names of suitable candidates waitlisted in order of respective categories A, B,C and length of aggregate temporary service put in the bank between 1-7-75 till 31-12-87. Workman was interviewed giving benefit of those settlement. The select list is produced at Exhibit M-5. Name of workman is included at Sl No. 428. Though workman submits that employees having less number of working days were appointed, list M-5 shows remarks of candidates found suitable, any employee having less number of days are not given appointment after Bhangwandas candidate at Sl. No. 161. Therefore evidence of workman on above point cannot be accepted. Workman has not produced documents that employees with less number of working days are given appointment in the Bank. Exhibit M-6 Para-2(ii) provides similarly all daily wage/ casual labours interviewed and found suitable for permanent appointment



will be empanelled/ wait listed category wise and in the manner envisaged in the settlements (iii) both the panels/ waitlists will be merged in their respective categories and a combined waiting list will be prepared. Where a temporary employee and a daily wager/casual labour stand on equal footing, the former will be waitlisted above the latter.

12. Though evidence on record doesnot show employee working less number of days in the select list is appointed. Ist party workman is paid retrenchment compensation and pay in lieu of notice. However seniority list of retrenched employee was not displayed on notice board.

Section 25 G of I.D.Act provides - Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

Rule 77 of I.D.Act provides- The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

The evidence of management's witness is clear that the seniority list of workman was not displayed on notice board therefore retrenchment of Ist party workman is in violation of Section 25-G read with Rule 77 of I.D.Act. For above reasons, I record my finding in Point No.1 partly in Negative.

13. **Point No.2-** In view of my finding in Point No.1, termination of workman is illegal for violation of Section 25-G read with Rule 77, question arises whether workman is entitled for reinstatement with back wages. Workman was paid retrenchment compensation and pay in lieu of notice. However seniority list contemplates under Section 25-G read with Rule 77 was not displayed therefore the termination of workman is found illegal. Part time employee was given opportunity for permanent appointment. Considering his number of working days, his name is appearing at Sl. No. 428 in Exhibit M-5. All the employees in select list could not be appointed. The list prepared after interview was Waiting List. It doesnot give right for appointment to all candidates in the list. The appointments are given as per the seniority considering number of working days. Shri R.Nagwanshi has submitted copies of

award passed in R/189/00, R/4/07, R/105/03, R/27/04. Each case needs to be decided as per evidence on record therefore copies of award submitted by Shri R.Nagwanshi cannot be used for purpose of persuasion. Workman is not entitled for reinstatement however for violation of Section 25-G, termination of service of workman suffers from illegality therefore compensation Rs. 50,000/- would be reasonable. Accordingly I record my finding in Point No.2.

14. In the result, award is passed as under:-

(1) The action of the management of Dy.General Manager, State Bank of India, Bhopal in terminating the service of Shri Anil Goswami S/o Dangiri Goswami w.e.f. 16-10-99 is illegal for violation of Section 25-G read with Rule 77 of I.D.Act.

15. IInd party is directed to pay compensation Rs. 50,000/- to the Ist party workman.

R.B.PATLE, Presiding Officer

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 315.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रिजर्व बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुंबई के पंचाट (संदर्भ संख्या 01/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/96/2011-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th February, 2015

**S.O. 315.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Reserve Bank of India and their workmen, received by the Central Government on 13/02/2015.

[No. L-12012/96/2011-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO.1 MUMBAI**

**Present : JUSTICE S.P.MEHROTRA, Presiding Officer**

**COMPLAINT NO. CGIT-1 OF 2012**

(Arising out of Ref.CGIT-42 of 2011)

**Parties :**

Ramesh Babji Mhadlekar ..... Complainant

**Vs.**

Reserve Bank of India ..... Opposite Party

**Appearances:**

For the Complainant : None present

For the Opposite Party : None present

State : Maharashtra

Mumbai, dated the 5th day of January, 2015

**AWARD**

1. It appears that the present Complaint under Section 33-A of the Industrial Disputes Act, 1947 was filed by the Complainant on 25.4.2012 making various prayers as mentioned in the said Complaint. By the Order dated 30.4.2012, notice was directed to be issued to the Opposite Party to file Written Statement.

2. It is, inter-alia, stated in the Complaint that during the pendency of Reference No.42 of 2011 in respect of the Industrial Dispute raised by the Complainant under Section 2-A of the Industrial Disputes Act, 1947, the Opposite Party served upon the Complainant, an eviction notice dated 6.2.2012, under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, and the Complainant was summoned to appear before the Estate Officer on the date mentioned in the said notice; and that the Opposite Party also by letter dated April 16, 2012 demanded Market Rent alongwith interest for the occupation of Staff Quarters allotted to the Complainant during the course of employment; and that the Opposite Party failed to seek the relevant permission from the Tribunal before commencing the above proceedings.

3. The Tribunal is informed by the Office that the aforesaid Reference No.42 of 2011 was earlier pending before this Tribunal, but subsequently the same was transferred to the Central Government Industrial Tribunal—cum—Labour Court No.2, Mumbai. The Office has further informed that the said Reference has since been decided, and the Award has been passed.

4. As regards the present Complaint, pleadings were exchanged between the parties, and the evidence on behalf of the parties was also led before this Tribunal. After the closure of evidence on 5.2.2013, the case was fixed for final arguments on 26.2.2013.

5. On 26.2.2013, Representatives for the parties were present. The case was adjourned for arguments to 26.3.2013.

6. On 26.3.2013, the Complainant as well as the Representative for the Opposite Party were present. The case was adjourned to 16.4.2013 for arguments.

7. On 16.4.2013, the Complainant was present. However, none was present on behalf of the Opposite Party. The case was adjourned to 21.6.2013 for arguments.

8. On 21.6.2013, Representative for the Opposite Party was present. However, none was present for the Complainant. The case was adjourned to 6.8.2013 for arguments.

9. On 6.8.2013, Representatives for the parties were present. However the post of Presiding Officer of this Tribunal was vacant. Therefore, the case was adjourned to 1.10.2013 for arguments.

10. On 1.10.2013, Representatives for the parties were not present. The post of Presiding Officer of this Tribunal was vacant. Therefore, the case was adjourned to 12.11.2013 for arguments.

11. On 12.11.2013, Representatives for the parties were not present. The post of Presiding Officer of this Tribunal was vacant. The case was, therefore, adjourned to 27.12.2013 for arguments.

12. On 27.12.2013, none was present on behalf of the Complainant nor was anyone present on behalf of the Opposite Party. Therefore, the case was adjourned to 11.2.2014 for arguments.

13. On 11.2.2014, none was present on behalf of the Complainant nor was anyone present on behalf of the Opposite Party. The case was adjourned to 25.3.2014 for arguments.

14. The case was put up for arguments on 25.3.2014 and thereafter on various dates as mentioned in the order sheet but on none of the said dates, anyone was present on behalf of the Complainant or on behalf of the Opposite Party.

15. The case was lastly put up on 17.11.2014. On the said date again, none was present for the Complainant nor was anyone present on behalf of the Opposite party. In the circumstances, by the order dated 17.11.2014, the case was adjourned to 5.1.2015 for arguments.

16. Pursuant to the order dated 17.11.2014, the case is put up today. Today again, none is present for the Complainant nor is anyone present for the Opposite Party.

17. In view of the above narration of facts, it is evident that the Complainant is no longer interested in getting any relief on the Complaint filed by him. No relief can, therefore, be granted to the Complainant on the Complaint filed by him under Section 33-A of the Industrial Disputes Act, 1947.

18. Award is passed accordingly.

Justice S. P. MEHROTRA, Presiding Officer

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 316.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 110/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/70/2013-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th February, 2015

**S.O. 316.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 110/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 16/02/2015.

[No. L-12012/70/2013-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,  
PRESIDING OFFICER, CENTRAL GOVT.  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,  
CHANDIGARH**

**Case No. ID No. 110/2013**

Reference No. L-12012/70/2013/IR(B-1)  
dated 30/09/2013

Radhey Shyam Verma,  
resident of 231, Rajiv Puram,  
Gali No. 3&4, Phusgarh Road,  
Karnal

...Workman

#### Versus

1. The Regional Manager,  
State Bank of India,  
Regional office (Haryana Region),  
Chandigarh

...Respondent

#### Appearances :

For the Workman : None

For the Management : Sh. Ashu Gupta for  
Shri S.K Gupta

#### AWARD

Passed On:-24.11.2014

Government of India Ministry of Labour vide  
notification No. L-12012/70/2013/IR(B-1) dated 30/09/2013

has referred the following dispute to this Tribunal for adjudication:

#### Term of Reference:

“Whether the action of the management of State Bank of India in removal of services of Shri Radhey Shyam Verma, Ex-Sr. Assistant w.e.f. 14.11.2007 and his signatures on his terminal dues was just and proper? To what relief the said workman is entitled to and from what date?”

2. Case repeatedly called. None appeared for the workman for the last several hearing. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh

24.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 317.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जम्मू एण्ड कश्मीर बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 992/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/30/2000-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th February, 2015

**S.O. 317.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 992/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Jammu and Kashmir Bank Ltd. and their workmen, received by the Central Government on 16/02/2015.

[No. L-12012/30/2000-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT-II,  
CHANDIGARH**

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 992/2005**

Registered on 16.9.2005

Sh. Lokinder Prasad, S/o Sh. Jagat Ram,  
R/o H.No.2856, Sector 22C,  
Chandigarh

...Petitioner

**Versus**

The Chairman,  
Jammu and Kashmir Bank Ltd.,  
Central Office, Zum Zum Building,  
Ram Bagh, Srinagar

The Senior Manager (Personnel),  
J&K Bank Ltd., Zum Zum Building,  
Ram Bagh, Srinagar

...Respondents

**APPEARANCES:**

For the workman : Sh. R.P. Rana Adv.

For the Management : Sh. A.P. Jagga Adv.

**AWARD**

Passed on- 7.10.2014

Central Government vide Notification No. L-12012/30/2000 IR(B-I) Dated 31.5.2000, by exercising its powers under Section 10 Sub-Section (1) Clause (d) and Sub-Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of Jammu and Kashmir Bank Ltd., Srinagar in terminating the services of Sh. Lokinder Prasad S/o Sh. Jagat Ram, w.e.f. 20.5.1999 is just and legal. If not, to what relief the workman is entitled?”

The facts in brief are that the workman was appointed as Waterman in May, 1982 and thereafter was appointed as Peon-cum-watchman vide order dated 19.5.1984. The workman submitted a matriculation examination certificate to get the promotion in the year 1988 and he was promoted as Assistant Cashier-cum-Godown Keeper vide order dated 27.7.1996.

The management sent the Matriculation Certificate for verification to the Bihar School Examination Board who vide their letter dated 21.1.1997 informed that the certificate was fake. A show-cause notice dated 16.6.1997 was served on the workman for committing 'gross misconduct' by submitting a fake certificate. Later on, the bank while resorting to Clause 522(1) of the Shastri Award terminated the services of the workman. Now according to the workman, he initially submitted a certificate bearing Roll No.7101 Serial No.185 issued by the Bihar School Examination Board and which was found fake but particulars were not mentioned correctly in the certificate and he actually appeared under Roll No. 1204 Serial No.258 for passing the Matriculation Examination and the said

Board later on issued a mark sheet and a certificate as well in his favour and he forwarded the copy of the same to the management but the management without serving any charge sheet and conducting any proper inquiry terminated his service which are unlawful. The services of a permanent employee cannot be terminated in such a summary way.

According to the management, submission of the Matriculation mark sheet in 1989, the workman was promoted as Assistant Cashier-cum-Godown Keeper in the year 1996 vide order dated 22.7.1996 and when the Bihar Board of School Education informed vide his letter dated 9.12.1998 that the certificate was fake, the management invoked Clause 522(1) of the Shastri Award and terminated his services which is legal and valid. That the workman is responsible for his conduct and criminal act for furnishing a fake certificate.

Parties were given opportunity to lead evidence.

In support of his case the workman appeared in the witness box and filed his affidavit reiterating his case as set out in the claim petition.

On the other hand management has examined Sh. Ghulam Qadir Shah who filed his affidavit reiterating the stand taken by the management in the written statement.

During the pendency of the reference, the workman died on 8.8.2007 and his LR's i.e. his wife, two sons and a daughter were brought on record vide order dated 15.11.2007.

I have heard Sh. R.P. Rana, counsel for the workman and Sh. A.P. Jagga, counsel for the management and perused the file carefully.

The admitted facts are that the workman was working as Peon-cum-Watchman with the management on regular basis. In the year 1988, he submitted a Matriculation Certificate issued from the Bihar School Examination Board to claim promotion of Assistant Cashier-cum-Godown Keeper. Acting on this certificate, the workman was promoted by the management vide order dated 27.7.1996. At the same time, management sent a certificate for verification to the Bihar School Examination Board who vide its letter dated 21.1.1997 informed that the certificate was fake. Consequently, the bank issued a notice dated 16.6.1997 informing the workman that he committed 'gross misconduct' by submitting a fake certificate. According to the workman, he got checked the record of the Bihar School Examination Board and it was found that his roll number was 1204 Serial No.258 and as such his roll number was wrongly mentioned as 7101 in the certificate he initially submitted to the bank. That he informed the bank about this. There is a letter dated 26.3.1989 which was put to management witness Sh. Ghulam Qadir Shah when he appeared in the witness box but he did not deny that the same was not of the bank. A perusal of this letter shows



that Branch Manager, Chandigarh forwarded the new certificate submitted by the workman to the concerned office along with the letter dated 22.3.1999. Thus the workman brought it to the notice of the management that a new certificate mentioning his correct roll number have been issued by the Bihar School Examination Board but instead of conducting any inquiry in pursuance of the notice dated 16.6.1997 issued to the workman, the management terminated the services of the workman vide order dated 20.5.1999.

Learned counsel for the management has contended that the workman submitted a fake certificate and the management was empowered to terminate his services as per Clause 522 appearing in Section IV of Chapter 25 of the Shastri Award and being so, the termination order dated 20.5.1999 is legal and valid.

Chapter 25 of the Shastri Award deals with recruitment, condition of service and termination of employment etc. and Section III of the Chapter contain Clauses 520 and 521 prescribing the procedure for taking disciplinary action and inter alia provides that the employee be supplied with a charge sheet and evidence be recorded and workman be given an opportunity to cross-examine the witness and thereafter findings with grounds on which the same are based be recorded. But Clause 522(1) provides for termination of the employment and it reads as follow –

“In cases not involving disciplinary action for misconduct and subject to clause (6) below, the employment of a permanent employee may be terminated by three months’ notice or on payment of three months’ pay and allowances in lieu of notice. The services of a probationer may be terminated by one month’s notice or on payment of a month’s pay and allowances in lieu of notice.

Thus an exhaustive procedure has been provided under Clause 521 of the said Award for taking disciplinary action including dismissal from service, whereas, a summary procedure has been given in Clause 522 providing that employment of a permanent employee can be terminated by giving three months’ notice or payment thereof. Though no reason is given for introducing this clause, but it seems to be given effect to in the rare of the rarest cases where the management finds the employee totally unsuitable for it or whose presence is of great inconvenience to the management. But the facts of the present case do not call for such an action. The workman submitted a certificate in the year 1988. He was promoted on 22.7.1996 and he did not join on the promotional post. He continued doing service till 1999 without causing any hardship and prejudice to the interest of the bank. The bank itself initially issued a show-cause notice for committing ‘gross misconduct’ to the workman in the year 1997 and it is not clear why the management later on changed its mind and resorted to Clause 522 of the Award

in the year 1999. It may also be added that the management acted only on the basis of letter dated 21.1.1997 vide which the concerned Board informed it that the certificate submitted by the workman was fake. On the basis of the simple letter, no action was required to be taken and the management was required to get the certificate verified after visiting the concerned office and recording the statements of the concerned persons and more especially when the workman brought to the notice of the management that the particulars of the certificate were mentioned wrongly and a new certificate has been issued by the Board prior to the passing of the impugned order. Considering all the circumstances, the bank was not within its rights to invoke Clause 522(1) of the Award and to terminate the services of the workman.

In result, it is held that action of the management in terminating the services of the workman w.e.f. 20.5.1999 is illegal and the workman is entitled to all the pay and allowances from the date of termination till his death. The amount so accrued be paid to his LR’s who have been brought on record. They be also given pensionary benefits of workman, if any admissible under the Rules. The bank shall pay the amount within three months of the publication of the Award failing which the LR’s of workman shall be entitled to get interest at the rate of six per cent per annum on the arrears from the date of the award till realization. The reference is accordingly answered in favour of the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 318.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 117/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-41012/136/98-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th February, 2015

**S.O. 318.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 117/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Central Railway and their workmen, received by the Central Government on 12/02/2015.

[No. L-41012/136/98-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**  
**BEFORE THE CENTRAL GOVERNMENT**  
**INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,**  
**JABALPUR**

**NO. CGIT/LC/R/117/99**

**PRESIDING OFFICER : SHRI R.B. PATLE**

Shri Moolchand, S/o Dangal,  
 C/o Gulabchand Raikwar,  
 West Bhanpur, Chhola Road,  
 Bhopal (MP)

...Workman

Versus

Divisional Railway Manager (P),  
 Central Railway, Habibganj,  
 Bhopal (MP)

...Management

**AWARD**

Passed on this 24th day of November, 2014

1. As per letter dated 9-3-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-41012/136/98-IR(B-I). The dispute under reference relates to:

“ Whether the action of the management of DRM, Central Railway, Bhopal in terminating the services of Shri Moolchand S/o Dangal w.e.f. 11-4-91 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 4/1 to 4/4. Case of Ist party workman is that he was working as Ggangman from 25-3-83 under PWI, Bhopal. He worked under PWI from 25-3-83 to May 1985. The workman was then transferred to Ganj Dasoda which falls under the jurisdiction of AEN, Bhopal. Subsequently workman was transferred to Vidisha, Bina, Baora. After his transfer from Bina to Baora, Ist party workman fell sick from 6-4-91 to 10-4-91. He was receiving treatment from Railway Hospital, Bina. Mining Officer, Bina issued duty certificate No. A-566614 dated 10-4-91. Ist party workman reported on duty on 11-4-91 along with Medical Certificate and submitted to Shri Rajput, PWI, Baora. It is submitted that duty certificate was adduced by PWI Shri Rajput. He abused workman in filthy language. Workman requested several times to PWI Baora to permit him to resume duty but PWI refused workman to resume duties. It is further submitted by workman that he approached various authorities. No sympathy was shown to him. He was not permitted to join duty. He was issued any charge sheet, DE was not conducted, he did not received any notice. Even if any enquiry conducted it was behind his back. Workman further submits that he was suffering from illness

from 6-4-91 to 10-4-91 for 4 days. He received treatment in Railway Hospital. Duty certificate issued by Medical Officer was torn by PWI. He was not permitted to join duty, the punishment imposed against him is without any point on his part. He has not committed any misconduct. He was suffering from illness.

3. Workman further submits that order dated 7-9-98 punishment of reducing to lower stage of pay with cumulative effect is illegal. He prays for setting aside said order.

4. IInd party filed Written Statement at Page 5/1 to 5/6. Preliminary objection is raised that punishment of reducing workman to lower pay scale for unauthorized absence is legal. Workman was absent unauthorisely from work. He is not entitled to any relief. That workman was working as MRCL under PWI, Shajapur from 4-2-90 to 8-11-91. Workman remained unauthorisely absent. workman did not come back to work till 18-11-91. Therefore charge sheet was issued to him on 30-4-92. Form 5 & 7 were pasted on notice board. Workman did not turnup. He remained absent. Workman was not available despite of notices therefore enquiry was conducted and removal order was passed.

5. All adverse contentions of workman are denied by IInd party. It is denied that workman was sick during period 6-4-91 to 10-4-91. That workman was under control of Chief PWI, Shajapur. There is no nexus of the allegation made by Ist party workman in respect of PWI Shri Rajpur. Ex-parte enquiry was conducted against workman and punishment of removal from service was imposed against workman is illegal. Said punishment was modified and workman was placed at lower stage of pay. Leniency was shown to workman while imposing such punishment. IInd party prays for rejection of claim.

6. Rejoinder is filed by workman reiterating his contentions in statement of claim.

7. As per order dated 23-10-13, it was found that no enquiry was conducted against workman. Case was adjourned for evidence on the point of legality of punishment. However IInd party has not adduced any evidence. After order on preliminary issue, the parties have not adduced any evidence.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |                     |
|--|---------------------|
| (i) Whether the punishment of reduction in lower stage of pay scale with cumulative effect revising order of removal from service is proper and legal? | In Negative         |
| (ii) If not, what relief the workman is entitled to?”  | As per final order. |

**REASONS**

9. As per order dated 23-10-13, it is found that no enquiry was conducted by IInd party before imposing punishment against workman. Initially the reference was made w.r.t. legality of the action of the management of DRM, C.Rly in terminating the services of workman. As per Exhibit M-1, the punishment of removal from service was revised to reduction in lower stage of pay scale with cumulative effect. IInd party has not adduced any evidence w.r.t. alleged unauthorised absence of workman from duty. As per application dated 31-7-14, counsel for IInd party submitted that Competent Authority vide letter dated 1-4-14 informed that relevant record of the case is not available. Due to non-availability of record, no one is ready to be present as witness on behalf of IInd party. In absence of evidence, the initial punishment of removal from service imposed against workman and reduction of said punishment to reduction in lower stage of pay scale with cumulative effect of workman cannot be said legal. For above reasons, I record Point No.1 in Negative.

10. In the result, award is passed as under:-

- (1) The action of the management imposing punishment of removal from service of workman and revising said punishment to reducing to lower stage of pay with cumulative effect are illegal. Order dated 7-9-98 of reduction of pay to lower stage is quashed.
- (2) IInd party is directed to give consequential benefits to the workman.

R.B.PATLE, Presiding Officer

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 319.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 29/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/02/2015 को प्राप्त हुआ था।

[सं. एल-41011/102/2009-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th February, 2015

**S.O. 319.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Uttar Railway and their workmen, received by the Central Government on 16/02/2015.

[No. L-41011/102/2009-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, LUCKNOW**

**PRESENT :** SHRI RAKESH KUMAR,  
Presiding Officer

**I.D. No. 29/2011**

Ref. No. L-41011/102/2009-IR (B-I)  
dated: 08.03.2011

**BETWEEN:**

Mandal Sangatan Mantri  
Uttar Railways Employee Union  
283/63, Kh Gadi Kannora (Premvati Nagar)  
PO Manak Nagar  
Lucknow

(Espousing cause of Shri Raja Ram)

**AND**

1. Dy. Chief Engineer (Construction)  
Uttar Railway, Charbagh  
Lucknow.
2. Deputy Chief Manager (Stores)  
Northern Railway, Stores Depot  
Alambagh, Lucknow.

**AWARD**

1. By order No. L-41011/102/2009-IR (B-I) dated: 08.03.2011 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Mandal Sangatan Mantri, Uttar Railways Employee Union, 283/63, Kh Gadi Kannora (Premvati Nagar), PO. Manak Nagar, Lucknow and the Dy. Chief Engineer (Construction), Uttar Railway, Charbagh, Lucknow & Deputy Chief Manager (Stores), Northern Railway, Stores Depot, Alambagh, Lucknow to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF MANAGEMENT OF NORTHERN RAILWAY, LUCKNOW IN NOT GIVING SHRI RAJA RAM, T.NO. 657 STATUS OF TEMPORARY WORKER FROM THE DATE OF COMPLETION OF 120 DAYS OF SERVICE IS LEGAL AND JUSTIFIED? TO WHAT RELIEF THE WORKMAN IS ENTITLED?”

3. The case of the workman's union, in brief, is that the workman, Raja Ram, has been engaged as casual labour with in construction unit under opposite party No. 1 and is presently working under opposite party No. 2. It has

been alleged by the workman's union that the workman under dispute was to be given temporary status after completion of 120 days of working as per P.S. N. 7850, Master Circular 48/92 and Rule 2304, 2501 and 2511 of Indian Railway Establishment Manual; but he was granted temporary status after five years' of his engagement, which is not only unfair labour practice but also is against Article 21 of the Constitution. Accordingly, the workman's union has prayed that the workmen concerned be granted temporary status from the date the has completed 120 days' working with consequential benefits.

4. The management of the North Central Railways has filed its written statement denying the allegations of the workman's union with submission that the workman under dispute was initially engaged by them as Project Casual Labour in Construction Unit with intermittent gap w.e.f. 09.10.74 and has been granted temporary status on 01.01.84 vide letter No. E(NG)II/84/CL/41 dated 11.09.86. It has been submitted that the railway formulated a scheme to provide the temporary status to Project Casual Labour, circulated vide No. E(NG)II/84/CL/41 dated 1.6.84 as per directions of Hon'ble Apex Court in *Inder Pal Yadav & others vs Union of India & others* (1985) 2 SCC 648. The management has submitted that as per modified date of grant of temporary status, the workmen were screened and posted accordingly; and is in fruitful employment of the opposite party for last 20 years, thus, raising the present industrial disputes after lapse of 20 long years makes it time barred hence, not maintainable in the eye of law. It is specifically submitted by the management that the workman has been engaged as project casual labour and as per existing Railway Rules 360 days' continuous service is required for grant of temporary status, therefore, the claim of the workmen for grant of temporary status after 120 days is not maintainable and liable to be rejected. Accordingly, the management has prayed that the claim of the workman's union be rejected being devoid of any merit.

5. The workman's union has filed its rejoinder wherein apart from reiterating facts already mentioned in the statement claim has submitted that the workman under dispute has not been appointed in any project, therefore, decision of Hon'ble Apex Court in *Inder Pal Yadav case* (supra) is not applicable on him and he should be granted temporary status after completion of 120 days of service.

6. The workman's union has not filed any documentary evidence in support of its claim; rather it has stated that the Casual Labour Card in respect of the workman and his Service Book, is with the employers, in original.

The management has filed photocopy of Casual Labour Card and Service Book in respect of all the workman alongwith its written statement.

7. The workman's union has examined workman; whereas the management examined Sri Sita Ram Sonkar, APO in support of their claim. The parties availed opportunity to cross-examine the each other's witnesses apart from putting oral arguments as well as written arguments.

8. Heard learned authorized representatives of the parties and perused entire evidence on record.

9. The authorized representative of the workman has contended that the workman was not project Casual Labour; rather they were Casual Labour engaged in construction division/unit. Therefore, he was eligible for grant of temporary status from the date he completed 120 days of service. The railway administration instead treated him as project Casual Labour and granted him temporary status after lapse of five years which is unfair labour practice. It is also contended that the decisions of the Hon'ble Supreme Court in *Indra Pal Yadav case* (supra) is not applicable on the workman. The workman's union has relied on:

- (i) *Union of India vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & another* 2008(116) FLR 1046.
- (ii) *Union of India & others vs. Basant Lal & others* 1992 SCC (L&S) 611.
- (iii) *L. Robert D'Souza vs. Executive Engineer, Southern Railway & another* 1982 SCC (L&S) 124.
- (iv) *N. Balakrishnan vs. M. Krishnamurthy* ACJ 1998 1347 SC.
- (v) *Kuldeep Singh vs. GM, Instrument Design Development and Facilities Centre & another* 2011 (128) FLR 121.
- (vi) *Din Mohammed (Dead) by LRs. vs. Union of India & others* 2002 (92) FLR 1216.
- (vii) *The Union of India & another vs. Girja Shankar & others* 2003 (96) FLR 1094.

10. In rebuttal, the authorized representative of the management has contended that the workman has been project Casual Labour in construction unit and worked with intermittent gap and he was granted temporary status as per Railway Board's letter dated 01.06.84. It has been submitted that the Railway Board vide its letter dated 11.09.86 modified the date of temporary status to the workmen in view of decision given by Hon'ble Supreme Court in *Indra Pal Yadav case* (supra). The management has contended that the workman was not entitled for grant of temporary status after completion of 120 days continuous service since he was engaged as project Casual Labour and as per existing Railway Rules, 360 days' continuous services is required for grant of temporary status to a project Casual Labour. The authorized



representative of the management has also contended that the workman has turned up after lapse of more than 20 years and his cause is not tenable in the eye of law being time barred. The management has relied on *Inder Pal Yadav & others vs. Union of India* (1985) 2 SCC 648.

11. I have given my thoughtful consideration to the rival submissions of the learned authorized representatives of the parties and scanned entire evidence on record in light thereto.

12. The workman has come up with a case that he has been engaged as casual labour in the Construction Unit of the Dy. Chief Engineer (Construction), Northern Railway, Lucknow and he was entitled for grant of temporary status on completion of 120 days of service under P.S. N. 7850, Master Circular 48/92 and Rule 2304, 2501 and 2511 of Indian Railway Establishment Manual; but the management granted him temporary status after five years' of their appointment, amounting to unfair labour practice. The workman's union has not filed any documentary evidence in support of their case; rather it has pleaded that the same is in power and possession of the Railways.

13. The management of the Northern Railways, rebutting the claim of the workman's union has come up with a clear cut case that the workman had been engaged as Project Casual Labour and accordingly, he was entitled for grant of temporary status on completion of 360 days continuous service; and accordingly, he was granted temporary status. Later on with the decision of Hon'ble Apex Court in *Inder Pal Yadav* case (supra), the date of grant of temporary status was modified vide Railway Board's letter dated 11.09.86 whereby the workman was given temporary status from previous date. The management has also stressed upon the factum of delay in raising the present industrial dispute after lapse of more than 20 years. The authorized representative of the management has pointed out that the workman is working with the railways for decades; but neither he preferred any representation, on the issue; nor moved to the court for redressal of his grievances. It is also stressed by the management that the workman has raised the present industrial dispute at a highly belated stage without any explanation to the delay. It has also been argued that though there is no limitation in the I.D. Act, 1947; but the same should not be condoned for the want of any explanation from the workman's union. He has also submitted that the Hon'ble Apex Court in number of its verdicts has observed that Courts should exercise their discretion, judiciously, while condoning the delay.

14. The workman's union has adduced evidence of the workman who stated in his cross-examination that he had been granted temporary status w.e.f. 1.1.84. The workman admitted the photocopy of service record and Casual Labour card, filed by the management, from paper No. M-5/7 to 5/12.

15. The workman has not filed any documentary proof in support of their claim but has relied on the photocopy of the service record and Casual Labour card of the workman, filed by the management. The service record of the workman shows the entry regarding grant of temporary status to the workman of different dates and there after grant of revised temporary status from different dates as per Railway Board's circular dated 11.9.86. The photocopy of the Casual Labour card, filed by the management has details regarding working of the workman with Permanent Way Inspector (Construction) at different-different stations.

Thus, both the parties have relied on the same set of documents in support of their different stands.

16. After going through the rival pleadings of the parties and documentary and oral evidence relied upon by the parties the bone of contention is as to whether the workman was Project Casual Labour or just casual labour engaged in the railway administration. Had they been Project Casual Labour then the action of the management was right and if they were Casual Labour on the rolls of railways then they ought to have been granted temporary status on completion of 120 days continuous service.

The burden that lied upon the workman's union was to come with the evidence that the workman was engaged as casual labour and he completed 120 days continuous service on this particular date, making him entitled for grant of temporary status. Thus, it was for the workman's union to lead its evidence on two points firstly that the workman was engaged as Casual Labour and secondly that he completed 120 days' of continuous working on such and such date. But the workman failed to comply with the above requirement. As it relied on the documentary evidence i.e. Casual Labour card which was in power and possession of the management for working detail; but when the management filed the photocopy of the same then it neither calculated the 120 days' continuous working from it nor disputed its genuineness. This goes to uphold the stand taken by the management that the workman was Project Casual Labour and accordingly he was granted temporary status on completion of 360 days' of continuous working vide Railway Board's letter dated 01.06.84 and thereafter granted them revised temporary status from a back date vide letter dated 11.09.86 as per guidelines of Hon'ble Apex Court.

17. The workman has relied on *Union of India vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & another* which pertains to termination of services of a workman in violation of provisions of Section 25 F, G & H of the Act. However, the facts of the present case are entirely different; hence not applicable in the present case. The workman has also relied on *Union of India & others vs. Basant Lal & others* 1992 SCC (L&S) 611; wherein the

Hon'ble Apex Court has held that a workman having completed 120 days of working becomes entitled for regularization as temporary worker and the Railway cannot deny them the temporary status on the ground that they had been appointed as casual labour on a project work and not on construction work on open line and as such they would acquire the temporary status only after completing 360 days of service. But in the present case the workman's union failed to specify the date when the different workmen completed 120 days' of continuous service, rendering them for grant of temporary status. The workman's union has also relied on *L. Robert D'Souza vs Executive Engineer, Southern Railway & another* 1982 SCC (L&S) 124 but the fact of the case law is entirely different from the present case hence not applicable. Likewise the facts of the case law relied upon by the workman in the *Union of India & another vs. Girja Shankar & others* 2003 (96) FLR 1094, *Kuldeep Singh vs. GM Instrument Design Development and Facilities Centre & another* 2011 (128) FLR 123 and *Din Mhammaed (Dead) by LRs. Vs. Union of India & others* 2002 992) FLR 1216 are quite different from the facts of the present case hence not appreciable.

18. It is well settled that if a party challenges the legality of an action, the burden lies upon him to prove illegality of the action; and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case burden was on the workman's union to set out the grounds to challenge the validity of the action of the management in not granting the temporary status to the workman after completion of 120 days' of continuous working. For this the burden of proof was on the workman's union to come with the evidence, that the workman under dispute has been engaged by the management of Railways as Casual Labour and under Rules they were entitled for grant of temporary status from completion of 120 days services with the employers; but the workman's union has failed to discharge the burden that lied upon them. The workman's union made a pleading, to explain the reason why it is not in position to file any documentary evidence before this Tribunal, in their statement of claim to the effect that the relevant document in support of their claim i.e. Casual Labour Card is attached in their Service Book. The workman's union in its rejoinder required the management to produce Casual Labour Card in respect of the workman before this Tribunal, resultantly, the management filed photocopy of Casual Labour Card and Services Book in respect of the workman. The workman's union did not dispute the service details filed by the management i.e. Casual Labour Card and extracts of Service Book. Therefore, when the management has filed the photocopy of Casual Labour Card as desired by the workman's union then it was incumbent upon the workman's union to come forward and sort out the relevant extract of the Casual Labour Card, which bears working details i.e. working period and number of days, to show

that the workman completed 120 days of continuous on such and such date and he was entitled for grant of temporary status from such date. But the workman has utterly failed to bring any evidence to the effect before this Tribunal that the workman was engaged as Casual Labour and that the workman was casual labour and it also failed to specify the date as to when the workman completed 120 days' of continuous working, making him eligible for grant of temporary status.

19. On the contrary the management has come with a clear cut case that the workman was engaged as Project Casual Labour with Construction Unit. It is also contended by the learned authorized representative of opposite party that there are so many projects which go on with the Construction Unit and the workmen were kept engaged in different Projects. It is also specifically pleaded and proved by the management that the workman was granted temporary status vide Railway Board's letter dated 01.06.84; but due to Supreme Court's direction in *Indra Pal Yadav Case* (supra), the Railway Board vide its letter dated 11.09.86, changed the date of grant of temporary status, as per modified policy and accordingly, reduced the date of Temporary Status through notice. The management has filed photocopy of Service Record in respect of workman, which bears entries regarding grant of temporary status to the workman vide letter dated 22/25.02.85.

20. The management has made a specific pleading to the effect that the claim of the workman's union is stale one and time barred as the union has preferred the case before this Tribunal after lapse of more than 20 years. The workman's union in rebuttal has submitted that there is no provision regarding limitation in the Industrial Disputes Act, 1947; hence their claim is maintainable.

In this regard the workman's union has relied on *N. Balakrishnan vs. M. Krishnamurthy* 1998 ACJ 1347; wherein Hon'ble Apex Court while dealing with the matter delay has observed that length of delay does not matter, acceptability of the explanation is the only criterion. But the workman's union has not given any explanation in its pleadings as to what prevented them to raise an industrial dispute at an early state. However, in the evidence it has been stated that the workman/union wrote many letters to the opposite parties and the same are pending with them; although no copy of such letter/representation finds its reference either on record or annexure with the affidavit. Moreover, the management witness vide para 9 of his affidavit has denied of submissions of any such application by the workmen.

In *Chennai Metropolitan Water Supply and Sewerage Board & others vs. T.T. Murali Babu* 2014 (141) FLR 772, Honble Apex Court has observed as under:

"The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a

Constitutional Court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring a hazard and causes injury to the lis. In the case at hand, though there has been four years’ delay in approaching the Court, yet the writ Court chose not to address the same. It is the duty of the Court to scrutinize whether such enormous delay is to be ignored without any justification.”

Further, in Dr. Jawahar Lal Rohatgi Memorial Eye Hospital vs. State of U.P. & others 2013 (138) FLR 11 Hon’ble Allahabad High Court upholding the action of the State Government in denying the making reference of case after 22 years held that it is not expedient for State Government to refer against order of termination dated 26.6.1982 being old and stale case, where the workman filed an application raising industrial dispute after 22 years in 2004. Hon’ble High Court observed that there is nothing to indicate as to why the workman could not approach the authority under the ID Act.

Thus, from the face of record it is crystal clear the workman did not bother to approach the management or any legal forum for redressal of his grievances for more than 20 years; and the explanation forwarded by the workman’s union before this Tribunal is insufficient.

21. Hence, from the facts and circumstances of the case and law cited hereinabove; I am of considered opinion that the action of the management of North Central Railway, Allahabad/Kanpur in not giving temporary status to the workman, Sri Raja Ram, from the alleged date of completion of 120 days of service is neither illegal nor unjustified. Accordingly, I come to the conclusion that the workman’s union is not entitled to any relief.

22. The reference under adjudication is answered accordingly.

23. Award as above.

LUCKNOW

06<sup>th</sup> December, 2014.

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 320.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदौर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 83/07) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/27/2007-आईआर (बी-1) ]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th February, 2015

**S.O. 320.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 83/07) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 13/02/2015.

[No. L-12012/27/2007-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/83/07

Shri Shankarlal Dheever,

Ward No. 26,

Sudhabhau Thakre, Daldal shivni,

Near Govt. School, Mova,

Raipur, Chhattisgarh,

Raipur

...Workman

#### Versus

Assistant General Manager (Pancham),

State Bank of Indore, Zonal office,

National Highw, Telibandha,

Raipur, Chhattisgarh

...Management

#### AWARD

Passed on this 17th day of November 2014

1. As per letter dated 20-8-07 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-12012/27/2007-IR(B-I). The dispute under reference relates to:

“ Whether the action of the management of State Bank of Indore, Raipur in terminating the services w.e.f. 25-5-06 of Shri Shanker Lal Dheever, instead of regularizing his services is justified? If not, what relief he is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of workman is that he was engaged on daily wages on post of peon from 1-6-99. He was paid wages Rs. 60, 70, 80, 90 per day. He worked with devotion. He was paid wages for working days Monday to Saturday. He was not paid wages for holidays. He completed 240 days continuous service during all the years till his services were terminated from 25-5-06. He worked under Branch Manager shri Khare, J.P.Monga, Chandrakant Pathak. He raised dispute before ALC. After failure report submitted to Govt., the dispute has been referred to this Tribunal.

3. Workman submits that as he completed 240 days continuous service during each of the year, he is covered as employee under Section 25 B of I.D.Act. Services are terminated without notice, he was not paid retrenchment compensation or salary in lieu of notice. Principles of last come first go was not followed. He was not given opportunity of re-employment. As such IInd party violated section 25-F, G, H, N of I.D.Act. On such contentions, workman prays for his reinstatement with backwages.

4. IInd party filed Written Statement at page 8/1 to 8/10. Preliminary objection is raised by IInd party that reference is not tenable as workman was not appointed as employee by the Bank. The appointment of staff is made in the Bank as per the rules and circular issued by the Bank. Branch Officer has no authority of appointing peon, messengers, security guard. The employees working in Bank i.e. sub Staff used to be transferred to other branches. Workman was not appointed as peon/messenger. He was not working in the Bank. Workman was engaged on daily wages as per exigencies. He was doing work of sweeping, cleaning for one or two hours in a day as casual employee. He is not entitled to be regularized as messenger/peon. As workman was not appointed by Bank as its employee, there was not question of his termination of services by the Bank.

5. IInd party denies that workman had completed 240 days continuous service during any of the year. There is no employer employee relationship, provisions of ID Act are not applicable. IInd party referred to ratio held in various cases in support of its contentions that there is no employer employee relationship and workman is not entitled for regular appointment or reinstatement. Workman is claiming employment in the Bank by back door entry. Workman is not entitled to any relief. On such ground, IInd party prays for rejection of claim.

6. Ist party workman submitted rejoinder at Page 9/1 to 9/3 reiterating its contentions in statement of claim.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |      |   |                     |
|------|---|---------------------|
| (i)  | Whether the action of the management of State Bank of Indore, Raipur in terminating the services w.e.f. 25-5-06 of Shri Shanker Lal Dheever, instead of regularizing his services is justified? | In Negative         |
| (ii) | If not, what relief the workman is entitled to?”  | As per final order. |

### REASONS

8. Though workman has raised objection to engage legal practitioner by IInd party, said objection was not pressed at time of hearing. The workman filed affidavit of his evidence. Workman says he was continuously working as peon from 1-6-90 to 2-4-06. He was working continuously for more than 240 days. His services were terminated in violation of Section 33 of I.D.Act. That daily wage employee Shailendra, Smt. Saraswati Bai, Bharat, Subhash Thakur were continued and his services were terminated without notice or paying retrenchment compensation. Workman was paid bonus of Rs. 9781/- for the period 99 to 2006. The termination of his services without notice or payment of retrenchment compensation is illegal. In his cross-examination, workman says he passed 8th standard. He was working in State Bank of Indore, MG Road, Raipur as peon. He was doing work of taking vouchers from different tables. He worked under different Branch Managers. As per workman, temporary peon is a person who is not issued appointment order. He was working on daily wages. He was paid wages at end of the week. He was not interviewed. He did not face any examination. He has not produced documents about his working. Documents Exhibit W-1 to W-6 are admitted by the management. Exhibit W-1 is cheque of Rs. 9781/-, Exhibit W-2, W-3 relates to payment of bonus to present workman. As per Exhibit W-4, Asstt. General manager was directed by ALC, Raipur to take action in the matter. Exhibit w-5 is also letter issued by ALC, Raipur to Asstt. General manager in the matter of payment of bonus. Exhibit W-6 is reply submitted by IInd party before ALC, Raipur. It is submitted by IInd party that workman was engaged on daily wages. He was paid wages for the working days. Appointment letter was not issued to him. Evidence of workman about his working in the bank is supported by documents W-1, W-2. Exhibit W-7 to 13 relates to details of the bonus paid to workman.

9. Management's witness Mahesh Upadhyay in his affidavit of evidence has stated that workman had not completed 240 days continuous service, he was not appointed against vacant post. Workman was engaged as



per exigencies for cleaning, sweeping work for one hour morning, one hour evening. Workman was not appointed following recruitment rules. He is not entitled for regularization. However said witness was not produced for his cross-examination, his evidence cannot be considered.

10. Management filed affidavit of evidence of witness Anthony on the same point. Above management's witness in his cross-examination says he was not working in MG Road during 1999 to 2006. His predecessor has filed affidavit in this case on its basis he filed affidavit but his affidavit is not identical. He has not produced any documents in support of his evidence. He had not received any information from Branch Manager. He claimed ignorance about payment of bonus. When his attention was pointed out to the document Exhibit W-1 to 4 received under RTI Act, witness claimed ignorance that workman was not appointed following recruitment rules. Appointment letter was not given to him. Management's witness was unable to tell how weekly wages were calculated. Witness of management admits that workman was not given notice for retrenchment. Retrenchment compensation was not paid to him.

11. The evidence of workman is supported by documents W-1 to W-4. Witness of management was not working in the branch during 99 to 2006, he has no personal knowledge about working of workman. He has not produced any documents to show that workman was engaged only for one to two hours for sweeping, cleaning work. No suggestion is given to workman in his cross-examination that he has not completed 240 days continuous service during any of the year. Under such circumstances, I find no cogent reason to disbelieve the workman. Evidence on record is sufficient to hold that workman was continuously working with IInd party more than 240 days. His services are terminated without notice in violation of Section 25-F of I.D.Act.

12. Terms of reference relates to legality of termination of service of Ist party workman instead of regularizing his services. As per evidence on record and workman, workman was working from 1-6-91 till discontinuation of his service in 2006. No documents are produced by Ist party under which workman is entitled for regularization. Workman in his cross-examination admits he was not interviewed, appointment letter was not given to him, he not passed any test before he was engaged. However his evidence is clear that he worked more than 240 days and as such termination of his service is in violation of Section 25-F of I.D.Act. For above reasons, I record my finding in Point No.1 in Negative.

13. **Point No.2-** In view of my finding in Point No.1, termination of service of workman is illegal for violation of Section 25-F of I.D.Act, question arises whether workman is entitled for reinstatement with backwages. Workman was engaged on daily wages for about 6 years. The legal

position is settled that the employees working on daily wages are not entitled for regularization/ reinstatement. Relief for reinstatement of workman cannot be allowed. In my considered view, considering working period, appropriate compensation would be justified. Considering period of working of workman for about 6 years, compensation Rs. One Lakh would be reasonable. Accordingly I record my finding in Point No.2.

14. In the result, award is passed as under:-

- (1) The action of the management of State Bank of Indore, Raipur in terminating the services w.e.f. 25-5-06 of Shri Shanker Lal Dheever, instead of regularizing his services is not proper.
- (2) IInd party is directed to pay compensation Rs. One Lakh to the workman within 30 days from date of publication of award.

In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 फरवरी, 2015

**का.आ. 321.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 101/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/02/2015 को प्राप्त हुआ था।

[सं. एल-12011/65/2014-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th February, 2015

**S.O. 321.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 101/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 16/02/2015.

[No. L-12011/65/2014-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT,  
CHENNAI**

Wednesday, the 3rd December, 2014

**Present :** K.P. PRASANNA KUMARI, Presiding Officer

**Industrial Dispute No. 101/2014**

नई दिल्ली, 16 फरवरी, 2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of State Bank of India and their workman)

**BETWEEN:**

Smt. D. Suganthi : 1st Party/Petitioner

AND

The Deputy General Manager : 2nd Party/Respondent  
State Bank of India  
Administrative Unit, Kurinji Complex  
State Bank Road  
Coimbatore-641018

**Appearance:**

For the 1st Party/Petitioner : None

For the 2nd Party/Respondent : None

**AWARD**

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/65/2014-IR (B.I) dated 27.10.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the punishment of discharge from service with superannuation benefits etc. imposed on Smt. D. Suganthi by the Management of State Bank of India, Coimbatore is legal and justified? If not, to what relief the petitioner is entitled?”

2. On receipt of the notice the petitioner has entered appearance. The petitioner has filed ID 79/2014 directly before this Court claiming the same relief as in the schedule of reference. Because of this the petitioner has decided not to press this reference. She has endorsed on the file that because of the pendency of ID 79/2014 she is not proceeding with this matter. The reference is accordingly closed.

An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

**Witnesses Examined:**

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

**Documents Marked:****On the petitioner's side**

Ex.No.	Date	Description
		N/A

**On the Management's side**

Ex.No.	Date	Description
		N/A

**का.आ. 322.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ हैदराबाद के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 69/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-12025/01/2015-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th February, 2015

**S.O. 322.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of State Bank of Hyderabad and their workmen, received by the Central Government on 13/02/2015.

[No. L-12025/01/2015-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

**Present :** Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 29th day of December, 2014

INDUSTRIAL DISPUTE L.C.I.D.No 69/2005

**Between:**

Sri Bhuraram,  
S/o Babaram,  
C/o A.P. Industrial Employees Union,  
“House of Labour”, King Kothi Road,  
Hyderabad –29 ...Petitioner

**AND**

1. The Dy. General Manager,  
Personal department,  
State Bank of Hyderabad,  
Gunfoundry Head Office,  
Hyderabad .
2. The Branch Manager,  
State Bank of Hyderabad,  
Bellavista Branch, Somajiguda Branch,  
Hyderabad ...Respondents

**Appearances:**

For the Petitioner : M/s. V. Viswanatham &  
R. Dushyantala, Advocates

For the Respondent : M/s. Ch. Siva Reddy &  
T.G. Prasad Reddy, Advocates

**AWARD**

This is a petition filed by Sri Bhuraram invoking Sec.2A(2) of Industrial Disputes Act, 1947 (who will be referred to as workman) has filed this petition against the Respondents seeking for passing an award directing the Respondent to reinstate the Petitioner into service from 6.6.2005 with full back wages and all other attendant benefits with continuity of service and to pay interest @ 12% p.a. on the back wages and costs.

2. The averments made in the petition in brief are as follows:

It has been stated by the Petitioner that he was appointed by the Respondent as casual labour in May, 2001 and was posted under 2nd Respondent where the Petitioner worked for more than 240 days continuously without any break in that year on a wage of Rs.50/- per day. The Petitioner has worked in that capacity for more than 4 years but he was not made regular. When the Petitioner insisted for regularization and asked for the correct payment of wages then the services of the Petitioner were terminated on 6.6.2005 without any written order or following the due procedure. Before that the Petitioner made a representation dated 19.5.2005 to regularize his services and pay arrears of wages as per the wages paid to the casual labourer of Kakatiyanagar branch who raised ID No.35/2001 which was decided on 24.9.2002 and the casual labour of the Kakatiyanagar branch were given wages as per rules and they were also paid arrears of the wages. The Petitioner moved a petition to follow the procedure of 1/3rd pay after two years one half of pay after another two years and 3/4th pay after another two years. The Petitioner further served a reminder on 31.5.2005 but no action was taken by the Respondent management. The action of the management in orally terminating the services of the Petitioner is illegal and against the principles of Industrial Disputes Act, 1947. The Hon'ble High Court of A.P. in WP No.15555/93 directed the Respondent to consider the cases of the Petitioners of that case. Another WP No.18436/2004 decided on 11.10.2004, the Hon'ble High Court of A.P., directed the Respondent to pass appropriate order on the observations of the regular employees. But the Respondent has not obeyed that order also. Hence, this petition.

3. Respondents filed their counter with the averments in brief as follows:

The Respondent management has filed counter statement. They have challenged the maintainability of

the claim petition. The Respondent has submitted that the Petitioner has not worked for more than 240 days. He was not on the rolls of the bank as such, the question of termination of the services did not arise, the allegation to this effect is baseless and misconceived. The bank has never engaged Petitioner in their employment nor the vacancies were notified, the Petitioner was engaged for casual work when his services were required by the bank. He was never employed as regular or a full day worker. He is not entitled for the benefit Sec.25F of the Industrial Disputes Act, 1947, because he was engaged to work as and when the bank required services of the Petitioner, he was employed for that date only. The Petition has no force and deserves to be rejected or dismissed. The Petitioner can not claim any advantage from the order passed in WP No.15555/93 or WP No.18436/2004 because the Petitioner was not a party to this petition.

4. To substantiate the contentions of the Petitioner WW1 was examined and Ex.W1 to W7 were marked. On behalf of the management MW1 was examined and Ex.M1 to M6 were marked.

5. Heard the arguments of the either party. Written arguments were also filed by the Petitioner and the same are received and considered.

6. The Point that arise for determination is :

Whether the Petitioner is workman and whether termination of his services is legal and justified? If so, to what relief the Petitioner is entitled?

**7. Point:**

As far as the present dispute is concerned, through the documents filed by Petitioner workman coupled with his own oral evidence as WW1, Petitioner could establish before this court that he has been working as casual labour with the Respondent bank since May, 2001. Sri Ch. Surender Raju, Chief Manager of the Respondent bank who has been examined as MW1 could not deny regarding the correspondence i.e., Ex.W2, W3, W5 and W6 when they were confronted to him. Thus, it can safely be taken that Petitioner has worked with the Respondent bank since May, 2001 as casual labour and therefore, he is a workman for all purposes. Contra contentions of the Respondent are not acceptable.

10. As can be gathered from the material on record, Petitioner who applied for his absorption in bank's regular service by making applications time and again and whose case has been recommended by the then Branch Manager, as can be gathered from Ex.W2, W3, W5 and W6 has raised an industrial dispute seeking for regularization of his service with the Respondent bank by approaching Assistant Labour Commissioner (C). Assistant Labour Commissioner (C) has made efforts to conciliate the matter, and evidently such conciliation proceedings failed.

11. While things stood so, instead of regularising the Petitioner's services, the Respondent bank has chosen to remove him from service abruptly w.e.f. 6.6.2005. Thereon Petitioner is constrained to approach this forum by filing this dispute seeking for his reinstatement into service.

12. Evidently and admittedly there is no compliance of Sec.25F of Industrial Disputes Act, 1947, while removing the Petitioner from service. It is the contention of the Respondent that since the Petitioner is not a workman and Industrial Disputes Act, 1947 does not apply to him, there was no compliance of Sec.25F of Industrial Disputes Act, 1947.

13. As already observed above, the material on record clearly discloses that Petitioner has been in continuous service as casual labour with the Respondent since May, 2001 and thus he is a workman. Thus, the provisions of Industrial Disputes Act, 1947 will apply to him. Therefore, his retrenchment/removal from service without complying with Sec.25F of the Industrial Disputes Act, 1947 is certainly illegal, unjust and arbitrary.

14. It is the contention of the Respondent that the principles laid down in the cases of Official Liquidator Vs. Dayanand and others (2008) 10 SCC page 1 whereunder principles laid down in the case of Umadevi Vs. State of Karnataka (2006) 4 SCC page 1 has been upheld, are applicable to the present case and that Petitioner is not entitled for the relief sought for.

15. In the above cited cases Hon'ble Supreme Court has considered the acceptable mode of public employment and non-acceptable regularization of services of the persons who entered into the service by back door methods, thereby defeating the opportunity of the general public to compete for appointment to the said post etc.. Present dispute is an industrial dispute. Industrial Law is totally different from Civil Law/Administrative Law. Regularization of casual workman as regular workman etc., are all governed by the industrial laws, rules and various circulars issued by the government from time to time touching this aspects. Public employment under Civil Law/Administrative Law is totally different.

16. Furthermore, in this case Petitioner is not seeking for regularization of his services. What all he is questioning is the correctness of abrupt termination of his services when he questioned the inaction on the part of the Respondent bank regarding his plea for regularization of his services, that too without complying with the Sec. 25F of the Industrial Disputes Act, 1947.

17. In spite of their own admission in their counter that "Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) had issued a circular No.F-3/3/104/87-IR dated 6.8.1990, directing that all recruitment of temporary employees in the clerical/subordinate cadre shall be stopped forth with and that for

the staff which was then on the rolls of the Banks, they shall be regularized as provided in the approach paper in terms of the circular issued at that time.", the Respondent bank, evidently failed to take appropriate action, in connection with the claims of the Petitioner.

18. Anyway, the question whether Petitioner is entitled for regularization of services or not is not the subject matter in this petition. Even if the same is subject matter in this petition, since it is an industrial dispute, the principles laid down in the above cited cases are not applicable.

19. For all the above referred reasons, the principles laid down in the above cited cases relied upon by the Learned Counsel for the bank are not helpful to his contentions in this case.

20. There are umpteen number of legal precedents laid down by the Apex Court whereunder it is clearly laid down that the workman who is removed from service without complying with the mandatory conditions laid down in Sec.25F of the Industrial Disputes Act, 1947 is to be ordered to be reinstated into service. Thus, the Petitioner, who is found to be a workman, is entitled to be reinstated into service of the bank w.e.f. 6.6.2005 with the benefit of continuous service. As far as back wages are concerned, since he did not render his service to the bank, but not due to his own fault, he is entitled for at least 50% of the back wages which he would have earned but for his removal from service.

This point is answered accordingly.

#### **Result:**

In the result, petition is allowed. Petitioner shall be reinstated into service of the Respondent bank as casual labour w.e.f. 6.6.2005 with continuity of service. He shall be paid 50% of the back wages also, forth with.

Award passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

#### **Appendix of evidence**

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Bhuraram	MW1 : Sri Ch. Surender Raju

#### **Documents marked for the Petitioner**

Ex.W1:	Copy of Ir.No.PER/GR.VI/F.22/2279 from the Personnel manager, Admn. to the Regional Manager, for permanent absorption under ID Act dt.11.3.1989
Ex.W2:	Copy of Ir. Dt.29.12.99 reg. Absorption of temporary employees on consolidate wage
Ex.W3:	Copy of Circular for payment of bonus dt.5.6.2002



- Ex.W4: Copy of proposal for appointment forwarded to Head Office by the Respondent No.2 dt.1.7.2002
- Ex.W5: Copy of Ir. of Personnel department to all the branch managers etc. directing to terminate immediately dt.3.6.2005
- Ex.W6: Copy of reply to WW1's union President on representation made by the union dt.2.7.2005
- Ex.W7: Copies of Petty cash vouchers

**Documents marked for the Respondent :**

- Ex.M1: Copy of award of CGIT cum Labour Court, Hyderabad dt.24.9.2002
- Ex.M2: Copy of order in WP No.15555/1993 dt.28.3.97
- Ex.M3: Copy of order in WP No.18436/2004 dt.11.10.2004
- Ex.M4: Copy of Ir. Of State Bank of Hyderabad head office to Sri N. Rama Krishna dt.28.3.2005
- Ex.M5: Copy of Lr. Of State Bank of Hyderabad to Sri V.S. Krishnachary dt.28.3.2005
- Ex.M6: Copy of Ir. Of State Bank of Hyderabad to Sri K. Vijay Kumar dt.28.3.2005

नई दिल्ली, 17 फरवरी, 2015

**का.आ. 323.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वाणिज्यिक प्रसारण सेवा, ऑल इंडिया रेडियो पटना के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 142/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/02/2015 को प्राप्त हुआ था।

[ सं. एल-42012/38/97-आईआर (डीयू) ]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th February, 2015

**S.O. 323.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 142/1998) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Commercial Broadcasting Services, A.I.R., Patna and their workman, which was received by the Central Government on 16/02/2015.

[No. L-42012/38/97-IR (DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD**

**PRESENT :** Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

**REFERENCE NO. 142 OF 1998**

**PARTIES :** Sh. Krishna Pratap,  
C/o Flat No.231, Defence Colony,  
Lohia Nagar, Kankarbagh, Patna

**Vs.**

The Station Director,  
Commercial Broadcasting Services,  
A.I.R., Patna,

Order No.L-42012/38/97/IR(DU)  
dt. 1/16.04.1998

**APPEARANCES :**

On behalf of the : Mr. Ajay Kumar, Rep. for the  
workman/Union workman

On behalf of the : Mr. D.K. Verma, Ld Advocate  
Management

State : Bihar Industry : Information & Broadcasting

Dated, Dhanbad, the 16th January, 2015

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10 (1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42012/38/97/IR (DU) dt.1/16.04.1998

**SCHEDULE**

“Whether the action of the Management of Commercial Broadcasting Services, All India Radio, Patna in terminating the services of Shri Krishna Pratap, Casual Announcer is justified and legal? If not, to what relief the workman is entitled?”

Neither workman Krishna Pratap nor any witness for his evidence is present and produced but Mr.D.K.Verma, the Ld. Advocate for the OP/Management is present as usual.

On perusal of the case record, it stands clear that the case has all along been pending for the evidence of workman since long i.e., 5.11.2013 as well as awaiting for the receipt of the record from the office of ALC®, Patna; thereafter despite several chances including last and final chance, though the workman was instructed to file afresh affidavied statement- in- chief or oral statement, following the rejection of his affidavied evidence in the form of application on 13.05.2014, yet even on two Regd. Notices

dt.10.08.2014 and 14.11.2014 for his evidence, as a last chance, he failed to produce any evidence on his behalf. This is the oldest case of the year 1998. The workman by his such negligent conducts appears to be quite uninterested or reluctant in pursuing his case up to its finality.

Under these circumstances, it appears to be long longer an Industrial dispute in the matter of termination of the workman as the Casual Announcer. Hence, the case is closed and accordingly an order of 'No Dispute Award' is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 17 फरवरी, 2015

**का.आ. 324.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 961/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/02/2015 को प्राप्त हुआ था।

[सं. एल-40011/31/2003-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th February, 2015

**S.O. 324.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 961/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workman, which was received by the Central Government on 16/02/2015.

[No. L-40011/31/2003-IR (DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CURN-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 961/2005**

Registered on 15.9.2005

Sh. Raj Kumar, S/o Sh. Jhanda Ram  
Village Khichian, Gurdaspur

...Petitioner

**Versus**

The General Manager, Telecom,  
BSNL, Pathankot  
The Sub-Divisional Officer (Telecom),  
BSNL, Gurdaspur

...Respondents

#### APPEARANCES

For the workman : Sh. Charanjeet, Adv.

For the Management : Sh. Anish Babbar, Adv.

#### AWARD

Passed on 20.10.2014

Central Government vide Notification No. L-40011/31/2003-IR(DU) dated 30.12.2003, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of BSNL, Gurdaspur in terminating the services of Sh. Raj Kumar S/O Sh. Jhanda Ram instead of regularizing/ granting temporary status is legal and justified? If not, to what relief the workman is entitled and from what date?”

In response to the notice, the workman appeared and submitted statement of claim pleading that he was employed as a casual mazdoor with respondent management on 1.1.1987 and he served there till 30.6.1988. He was relieved on 7.6.1988 with a direction to report for duty to Assistant Manager, Projects, TCIL, New Delhi. He was sent to Riyad City by the TCIL where the project was to be executed and he remained on deputation with the said firm till 30.8.1990. He was relieved on 30.8.1990 with a direction to report at TCIL Headquarter at New Delhi. TCIL, New Delhi sent him to SDO(T), Gurdaspur who refused to take him back on duty. That his services were terminated without paying him any retrenchment compensation or service of notice and his termination is illegal.

It is also pleaded that the workman is entitled to the grant of temporary status of casual worker as per the scheme framed by the respondent management.

Respondent management filed written reply pleading that the workman was employed from 1.1.1987 to 31.3.1987 and then 1.3.1988 to 30.4.1988 i.e. for a total period of 151 days for a particular job and on completion of the job, he was provided with alternative work at TCIL where he worked till 13.8.1990. That he was not an employee of the respondent management when his services came to an end. That no retrenchment compensation was to be paid by the respondent management.

In support of its case, the workman appeared in the witness box and filed his affidavit reiterating the stand taken by him in the statement of claim.

On the other hand, the management examined Sh. Ramesh Kumar, who filed his affidavit reiterating the stand of the management as taken in the written statement.

It was argued by the learned counsel for the workman that workman continuously worked with the respondent management from 1.1.1987 to 30.6.1988 and the management did not intentionally produce the record summoned from it to conceal the fact that the workman actually worked with it for the said period and since no retrenchment compensation was paid to him at the time of the termination of his services, his termination is illegal and void.

It may be added that the workman claimed that he served the department from 1.1.1987 to 30.6.1988 continuously and this fact is controverted by the management in the written statement where it is pleaded that workman worked only for 151 days. The workman himself placed on record a certificate WW1/4 in which the total working days are mentioned as 151 corroborating the case set up by the management and as such relying on the document on which the workman himself relies, it cannot be said that he continuously worked with the management from 1.1.1987 to 30.6.1988.

The workman has again placed reliance on another document dated 7.6.1988 WW1/1 vide which he was relieved by the respondent management. It is mentioned therein that the workman who is a daily-rated casual mazdoor has been relieved of his duty w.e.f. 20.5.1988 in pursuance of the selection made by the Assistant Manager, Project, TCIL, New Delhi.

Thus the workman was working as a daily rated casual mazdoor and was relieved from his duties on 7.6.1988 on being selected by TCIL. It is not disputed that TCIL is not a part of the respondent management. It is the case of the workman himself that he joined the TCIL who sent him to Riyad where he worked and was relieved on 13.8.1990. Thus, at the time when his services ended he was not an employee of the respondent management but of TCIL who is not a party in this case. Therefore he cannot say that his services were terminated by the respondent management and that too illegally and he is not entitled to claim relief from respondent management. The reference is answered accordingly. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 17 फरवरी, 2015

**का.आ. 325.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केन्द्रीय रेशम बोर्ड, सिंहभूम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 47/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/02/2015 को प्राप्त हुआ था।

[सं. एल-42012/249/99-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th February, 2015

**S.O. 325.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 47/2000) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Central Silk Board, Singhbhum and their workman, which was received by the Central Government on 16/02/2015.

[No. L-42012/249/99-IR (DU)]

P. K. VENUGOPAL, Desk Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

**PRESENT :** Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

### REFERENCE NO. 47 OF 2000

**PARTIES :** Sh. Janglo  
Village Mangudih, PO: Kharsawan,  
Singhbhum

**Vs.**

The Asstt. Director,  
Central Silk Board, PO: Kharsawan,  
Singhbhum

Ministry's Order No L-42012/249/99/  
IR(DU) dt. 02.03.2000

### APPEARANCES :

On behalf of the : None  
workman/Union

On behalf of the : Dr. Ram Kishore, Ld. Rep.  
Management

State : Jharkhand

Industry : Textile

Dated, Dhanbad, the 5th Jan., 2015

### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10 (1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No L-42012/249/99/IR(DU) dated 02.03.2000.

### SCHEDULE

“Whether the action of the Management of Basic Seed Multiplication and Training Centre at

Kharasawan in terminating the services of Sh.Janglo, workman w.e.f. 8/11/89 from the roll of BSM &TC is justified? If not, to what relief the workman is entitled?"

2. None appeared for the workman nor any petition filed by his any heir for his substitution since his death earlier. Dr. Ram Kishore, the Scientist as the Representative for the Management of the Central Silk Board is present.

On perusal of the case record, it is found that the case has been pending for evidence of the workman, but meanwhile it was informed by his villagers that the workman had already died; since thereafter despite Regd. Notices, none appeared for the substitution in place of the deceased workman. The Instant reference relates to an issue over the termination of the service of then workman Janglo w.e.f. 08.11.1989.

Under these circumstances, the case is closed as 'No Industrial Dispute' now. Accordingly, an order is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 17 फरवरी, 2015

**का.आ. 326.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वाणिज्यिक प्रसारण सेवा, ऑल इंडिया रेडियो, पटना के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 141/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/02/2015 को प्राप्त हुआ था।

[सं. एल-42012/40/97-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th February, 2015

**S.O. 326.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 141/1998) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Commercial Broadcasting Services, A.I.R., Patna and their workman, which was received by the Central Government on 16/02/2015.

[No. L-42012/40/97-IR (DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

**PRESENT :** Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

#### REFERENCE NO 141 OF 1998

**PARTIES :** Smt. Shakuntala Kumari,  
Road No.09, South Ashok Nagar,  
Kankarbagh, Patna.

Vs.

The Station Director,  
Commercial Broadcasting Services,  
A.I.R., Patna,

Order No.L-42012/40/97/IR(DU)  
dated 1/16.04.1998

#### APPEARANCES :

On behalf of the : Mr. Ajay Kumar, Rep. for the  
workman/Union workman

On behalf of the : Mr. D.K. Verma, Ld .Advocate  
Management

State : Bihar Industry : Information & Broadcasting

Dated, Dhanbad, the 16th Jan., 2015

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-42012/40/97-IR (DU) dated 1/16.04.1998.

#### SCHEDULE

“Whether the action of the Management of Commercial Broadcasting Services, All India Radio, Patna in terminating the services of Smt. Shakuntala Kumari, Casual Announcer is justified and legal? If not, to what relief the workwoman is entitled ?”

Neither workwoman Smt. Shakuntala Kumari nor any witness on her behalf is present for her evidence but Mr D.K.Verma Ld.Advocate for OP/Management is present.

On perusal of the case record, I find that this case has all along been pending for evidence of the workwoman since 12.03.2008 as well as awaiting for the records from the ALC©, Patna and thereafter since 25.09.2013, for which the workwoman's evidence in the form of application affidavited was rejected on 03.05.2014 with the direction to file a fresh affidavited statement or her oral evidence before the Tribunal. Since thereafter, despite two Regd.Notices dt.12.08.2014 and 14.11.2014 on her address as noted in the Reference itself, she failed to appear for her evidence till now even after a last chance. The Instant Reference relates to an issue about her termination as Casual Announcer .The workwoman by her own such negligent acts prima facie appears to be uninterested or reluctant to pursue the case for its finality .It is the oldest case of the year 1998.



Under these circumstances, the Instant case appears to be no longer an Industrial Dispute. Accordingly it is closed, and an order is passed to that effect.

KISHORI RAM, Presiding Officer

नई दिल्ली, 17 फरवरी, 2015

**का.आ. 327.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केन्द्रीय रेशम बोर्ड, सिंहभूम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 49/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/02/2015 को प्राप्त हुआ था।

[सं. एल-42012/251/99-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th February, 2015

**S.O. 327.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 49/2000) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Central Silk Board, Singhbhum and their workman, which was received by the Central Government on 16/02/2015.

[No. L-42012/251/99-IR (DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

**PRESENT :** Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

#### REFERENCE NO. 49 OF 2000

**PARTIES :** Sh. Mola Ram Sujui,  
Vill: Mangudih, PO: Kuchai Arwa,  
Singhbhum -833216

**Vs.**

The Asstt. Director,  
Central Silk Board, PO: Kharsawan,  
Singhbhum

Ministry's Order No L-42012/251/99/  
IR(DU) dt. 02.03.2000

#### APPEARANCES :

On behalf of the : None  
workman/Union

On behalf of the : Dr. Ram Kishore, Ld. Rep.  
Management

State : Jharkhand

Industry : Textile

Dated, Dhanbad, the 5th Jan., 2015

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10 (1) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42012/251/99/IR (DU) dt. 02.03.2000.

#### SCHEDULE

“Whether the action of the Management of Basic Seed Multiplication and Training Centre at Kharsawan in terminating the services of Sh. Mola Ram Sujui w.e.f. 8/11/98 is justified? If not, to what relief the workman is entitled?”

2. None appeared for workman Shri Mola Ram Sujui nor any one on his behalf for his substitution in place of the deceased workman since his death earlier, despite Regd. Notices Dr. Ram Kishore, the Scientist as Representative for the Management of the Central Silk Board Kharsawan is present.

On the perusal of the case record, it stands clear that not any heir of the deceased workman Mola Ram Sujui appeared for his substitution. Under these circumstances the case is closed as ‘No Industrial Dispute’ existing, as Babu Ram Sujui, the son of the deceased workman did not appear despite several times for the substitution of his father. Hence, it is passed an order of ‘No Dispute Award’.

KISHORI RAM, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 328.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध कर्नाटक राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्र.सं.	राजस्व ग्राम का नाम	होबली	तालुक	जिला
1	2	3	4	5
1.	निड्डहट्टा	जड़िगेनहल्ली	होसकोटे	बैंगलूर रूरल
2.	चिक्कहल्लूर	कसबा	होसकोटे	बैंगलूर रूरल

[सं. एस-38013/12/2015-एस.एस. I]

अजय मलिक, अवर सचिव

New Delhi, the 18th February, 2015

**S.O. 328.**—In exercise of the powers conferred by sub-section (3) 328 of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Karnataka namely :—

Sl. No.	Name of the Rev. Village or Municipal Limits	Hobli	Taluk	District
1	2	3	4	5
1.	Nidagatta	Jadigenahalli	Hoskote	Bangalore Rural
2.	Chikkahallur	Kasaba	Hoskote	Bangalore Rural

[No. S-38013/12/2015-S.S.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 329.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

केन्द्र	क्षेत्र के अंतर्गत आने वाले निम्न राजस्व गांव
तिरुनेलवेली जिले में	1. अरियाकुलम
पालयमकोटै तालुक	2. उतमापांडिकुलम
तिरुनेलवेली के उपनगर क्षेत्र	3. कृष्णापुरम

[सं. एस-38013/13/2015-एस.एस. I]

अजय मलिक, अवर सचिव

New Delhi, the 18th February, 2015

**S.O. 329.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections

77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamilnadu namely :—

Centre	Area Comprising the Revenue Villages of
Suburbs of Tirunelveli Palayamkottai Taluk, Tirunelveli District	1. Ariyakulam 2. Uthamapandikulam 3. Krishnapuram

[No. S-38013/13/2015-S.S.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 330.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध उत्तराखण्ड राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्र. सं.	राजस्व ग्राम का नाम	राजस्व परगना	राजस्व तहसील	जिला
1.	कुंआवाला, डोईवाला, भानियवावाला, बालावाला, जौलीग्रान्ट एवं मिस्सरवालाखुर्द	डोईवाला	डोईवाला	देहरादून

[सं. एस-38013/14/2015-एस.एस. I]

अजय मलिक, अवर सचिव

New Delhi, the 18th February, 2015

**S.O. 330.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Uttarakhand namely :—

Sl. No.	Name of the Revenue Village	Revenue Pargana	Revenue Tehsil	District
1.	Kuanwala, Doiwala, Bhaniawala, Balawala Jolly Grant and Missarwalakhurd	Doiwala	Doiwala	Dehradun

[No. S-38013/14/2015-S.S.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 331.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध उत्तराखण्ड राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्र. सं.	राजस्व ग्राम का नाम	राजस्व परगना	राजस्व तहसील	जिला
1.	डांडालखौंड एवं आई.टी. पार्क देहरादून के अंतर्गत समस्त क्षेत्र	देहरादून	देहरादून	देहरादून

[सं. एस-38013/15/2015-एस.एस. I]

अजय मलिक, अवर सचिव

New Delhi, the 18th February, 2015

**S.O. 331.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Uttarakhand namely :—

Sl. No.	Name of the Revenue Village	Revenue Pargana	Revenue Tehsil	District
1.	Danda Lakhound and all under IT Park, Dehradun	Dehradun	Dehradun	Dehradun

[No. S-38013/15/2015-S.S.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 332.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध उत्तराखण्ड राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्र. सं.	राजस्व ग्राम का नाम	राजस्व परगना	राजस्व तहसील	जिला
1.	अमाऊँ, ऊँचीमहुवट, खटीमा, खालीमहुवट, गोसीकुआँ, चन्देली, चारूबेटा, झनकट, नौगावाठगू, पहेनिया, भूडाकिशनी, मुडेली	खटीमा	खटीमा	ऊधमसिंह नगर

[सं. एस-38013/16/2015-एस.एस. I]

अजय मलिक, अवर सचिव

New Delhi, the 18th February, 2015

**S.O. 332.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Uttarakhand namely :—

Sl. No.	Name of the Revenue Village	Revenue Pargana	Revenue Tehsil	District
1.	Amaun, Unchimahuvat, Khatima, Khalimahuvat, Gosikuan, Chandeli, Charubeta, Jhankat, Naugavathaggu, Pahenia, Bhudakishni, Mudeli	Khatima	Khatima	Udam Singh Nagar

[No. S-38013/16/2015-S.S.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 333.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध कर्नाटक राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्र.सं.	राजस्व ग्राम का नाम	होबली	तालुक	जिला
1.	गरग	गरग	धारवाड़	धारवाड़

[सं. एस-38013/17/2015-एस.एस. I]

अजय मलिक, अवर सचिव

New Delhi, the 18th February, 2015

**S.O. 333.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Karnataka namely :—

Sl. No.	Name of the Rev. Village or Municipal Limits	Hobli	Taluk	District
1	2	3	4	5
1.	Garag	Garag	Dharwad	Dharwad

[No. S-38013/17/2015-S.S.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 334.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध बिहार राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्रम सं.	राजस्व ग्राम का नाम/क्षेत्र	हदवस्त सं./थाना सं.	तहसील/तालुक	जिला
1	2	3	4	5
1.	सर्किट हाउस रोड	236	पकड़ी	भोजपुर
2.	पकड़ी चौक	236	पकड़ी	भोजपुर
3.	डी.टी.रोड	237	कस्बे आरा	भोजपुर
4.	आरा	237	कस्बे आरा	भोजपुर
5.	षिवगंज आरा	237	कस्बे आरा	भोजपुर
6.	कटीरा, आरा	236	पकड़ी	भोजपुर
7.	जेल रोड, आरा	237	कस्बे आरा	भोजपुर
8.	बस स्टैंड के नजदीक, आरा	169	नवादा	भोजपुर
9.	आरा-पटना रोड	164	धनपुरा	भोजपुर
10.	शहीद भवन, आरा	237	कस्बे आरा	भोजपुर
11.	दक्षिण रमना रोड	237	कस्बे आरा	भोजपुर
12.	परमार काम्प्लेक्स, आरा	237	कस्बे आरा	भोजपुर
13.	चंदवा मोड़, आरा	236	पकड़ी	भोजपुर

1	2	3	4	5
14.	हॉस्पिटल रोड, आरा	237	कस्बे आरा	भोजपुर
15.	बाई पास, सपना सिनेमा के नजदीक	237	कस्बे आरा	भोजपुर
16.	दक्षिण-पूर्व रमना रोड, आरा	237	कस्बे आरा	भोजपुर
17.	पाण्डेय शॉपिंग मोड़ आरा	236	पकड़ी	भोजपुर
18.	नयी पुलिस लाइन, चंदवा मोड़	236	पकड़ी	भोजपुर

[सं. एस-38013/18/2015-एस.एस. I]

अजय मलिक, अवर सचिव

New Delhi, the 18th February, 2015

**S.O. 334.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Bihar namely :—

Sl. No.	Name of the Revenue Village	Had Bast No. Thana No.	Tehsil/Taluk	District
1.	Circuit House Road, Arrah	236	Pakari	Bhojpur
2.	Pakari Chowk	236	Pakari	Bhojpur
3.	D.T. Road, Arrah	237	Kasbe Arrah	Bhojpur
4.	Arrah	237	Kasbe Arrah	Bhojpur
5.	Sheogang, Arrah	237	Kasbe Arrah	Bhojpur
6.	Katira, Arrah	236	Pakari	Bhojpur
7.	Jail Road, Arrah	237	Kasbe Arrah	Bhojpur
8.	Near Bus Stead, Arrah	169	Nawada	Bhojpur
9.	Arrah Patna Road	164	Dhanpura	Bhojpur
10.	Shahid Bhawan, Arrah	237	Kasbe Arrah	Bhojpur
11.	South.Ramana Road	237	Kasbe Arrah	Bhojpur
12.	Parmar Comple, Arrah	237	Kasbe Arrah	Bhojpur
13.	Near Chandwa More	236	Pakari	Bhojpur
14.	Hospital Road, Arrah	237	Kasbe Arrah	Bhojpur
15.	By Pass, Near Sapna Cenema, Arrah	237	Kasbe Arrah	Bhojpur
16.	South East Ramna Rd	237	Kasbe Arrah	Bhojpur
17.	Pandey Shoping More, Pakri Chowk	236	Pakari	Bhojpur
18.	New Police Line, Chandwa More	236	Pakari	Bhojpur

[No. S-38013/18/2015-S.S.I]

AJAY MALIK, Under Secy.



नई दिल्ली, 18 फरवरी, 2015

**SCHEDULE**

**का.आ. 335.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एन एफ रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 09/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[ सं. एल-41011/70/2010-आईआर (बी-1) ]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 335.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 09/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati as shown in the Annexure in the Industrial Dispute between the management of N.F. Railway and their workmen, received by the Central Government on 18/02/2015.

[No. L-41011/70/2010-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE****IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM**

**Present :** Sri L.C. Dey, M.A., LL.B., Presiding Officer, CGIT-cum-Labour Court, Guwahati.

In the matter of an Industrial Dispute between:

The Management of N.F. Railway, Maligaon, Guwahati.

**-Vrs-**

Workman Sri Bikash Sarkar, represented by the General Secretary, Rail Mazdoor Union, Maligaon, N.F. Rly, Maligaon, Guwahati.

**Ref. Case No. 09 of 2010****APPEARANCES:**

For the Management : Mr. S.N. Choudhury, Advocate

For the Workman : Mrs. Maya Bora, Advocate,  
Mr. M.K. Das, General  
Secretary, RMU, Maligaon.

Date of Award : 23.01.2015

**AWARD**

1. This Reference is initiated on an Industrial Dispute exists between the employers in relation to the Management of N.F. Railway and their workman Sri Bikash Sarkar, which was referred to by the Ministry of Labour, Government of India, New Delhi vide their Order No. L-41011/70/2010-IR(B-I); Dated: 17/06/2010. The Schedule of the Reference as under:

“Whether the action of the management of N.F. Railway in crating less number of posts in restructuring and thereby not allowing the promotion of Sri Bikash Sarkar, workman to the next higher grade w.e.f 16.5.1995 as per Railway Board instructions is justified? If not, What relief the workman concerned is entitled to?”

2. On receipt of the order of Reference from the Ministry of Labour, Government of India this Reference Case has been registered and notices were served upon both the parties who appeared and contested the proceeding by filing their claim statement/written statement and adducing evidence along with documents.

3. The case of the workman, in nutshell, is that the workman Sri Bikash Sarkar has been working as Chief Office Superintendent/I ( in short COS) in the establishment of Dy. Chief Engineer, Bridge Line, Maligaon (in short Dy. C.E., BL, Maligaon) of N. F. Railway under the control of Engineering Department headed by its Principal Chief Engineer under the administrative control of Chief Bridge Engineer, N.F. Railway, Maligaon (in short CBE/MLG). The seniority of the workman's unit is looked after by the office of the Chief Personnel Officer, N.F. Railway in the personnel matters. The workman joined the Railway service on 20.11.1972 as Junior Clerk and subsequently promoted as Senior Clerk, Head Clerk, Office Superintendent-II and Office Superintendent-I, and thereafter holding the post of Chief Office Superintendent (COS) in the scale of Rs. 7450/- to Rs.11500/- revised to Rs. 9300- 34,800/- and the Grade Pay of Rs. 4600/-. The workman was promoted to Office Superintendent-II on 18.11.93 and he was looking for due promotion to OS-I in due course. Consequent upon the implementation of the Fifth Central Pay Commission's recommendations, the Government of India, Ministry of Railways, considered the question of introduction of some new pay scales for certain categories of staff and accordingly with the approval of the President of India the Ministry of Railway decided to introduce new pay scales in certain categories of staff vide Railway Board Circular No. PC-V/98/II/11/18(A) dated 10.05.1998 providing the introduction of new scales of pay on functional basis in the ministerial cadre of Group C including the Post of Chief Office Superintendent in the process of new strength of each grade of the ministerial cadre including OS-I was introduced through revised percentage of the Book of Sanction for each grade and the Railway Board Circular dated 10.5.98 as mentioned above has been circulated to all concerned for necessary action by the department. The Service hierarchy in the ministerial cadre in the establishment of Dy. C.E, BL, Maligaon is as under:

(In pre-revised scale of pay)	
Entry grade:	Junior Clerk Scale 3050—4590
Next promotional grade	Senior Clerk Scale Rs. 4500—7000.
Next promotional grade	Head Clerk Scale- Rs. 5000—8000
Next promotional grade	Office Superintendent/II Scale Rs. 5500—9000
Next promotional grade	Office Superintendent/I Scale Rs. 6500—10500

Next promotional grade Chief Office Superintendent Scale Rs. 7450—11500.

This Circular dated 10.05.98 in its Annexure provided for revised percentage of the Book of Sanction for creation/abolition in number of post of Ministerial Cadres in the table headed “ ALL DEPARTMENTS ( OTHER THAN ACCOUNTS), Category: Ministerial Staff” which is relevant in the Engineering Department in which the establishment of Dy. C.E., Bridge Line, Maligaon falls. The revised percentage of Book of Sanction is reproduced as under :

“ALL DEPARTMENTS (OTHER THAN ACCOUNTS)

Category : Ministerial Staff.

Designation	Pay scale	%tage existing	%tage revised	Remarks	Classification and procedure for Filling up of posts Introduced now.
Junior Clerk	3050-4590	20%	20%	Existing.	
Sr. Clerk	4500-7000	35%	35%	Existing.	
Head Clerk	5000-8000	25%	25%	Existing	
Office Supdt. Gr.II	5500-9000	12%	12%	Existing	
Office Supdt. Gr.I	6500-10500	8%	6%	Existing	
Chief Office Supdt.	7450-11500	-	2%	New Scale	Selection.”

The grades of Senior Clerk, Head Clerk and Office Superintendent-I are non-selection grades and the grades of Office Superintendent-II and Chief Office Superintendent are selection grade and the selection posts are filled up by positive act of selection on 1 vacancy : 3 candidate to be called for selection basis and the non-selection posts are filled up by seniority-cum-suitability on the basis of 1 vacancy:1 candidate to be called for filling up the vacancy. In the year 1998 and 1999 the workman was holding the post of Office Superintendent-II which is the feeder grade for promotion to Office Superintendent-I grade; and on introduction of the new post of Chief Office Superintendent the revised number of post of OS-I was allowed and opportunity occurred to the workman to be considered for promotion to the OS-I under the policy framed by the Railway Board. Further case of the Union is that according to the Railway Board Circular dated 10.5.98 the strength of the Post of OS-I in the revised pay scale of Rs. 6500 -10500 was reduced from existing 8%

to 6% of the Book of Sanction as on 10.5.98 for all department other than Accounts. But the said Circular was not implemented in due time and manner of the office of the Dy. CE, BL, Maligaon when the workman has already put in regular and continuous service of more than the residency period of two years in the feeder grade of OS-II for promotion to OS-I.

The Union alleged that due to non implementation of the Policy Circular in prescribed and permitted manner of calculation of promotional vacancies for OS-I, the Management instead of creating 5 numbers of posts of OS-I maintained only 4 number of posts in the grade of OS-I whereby the workman was deprived of being considered for promotion to OS-I. The workman represented his grievance before the Chief Personnel Officer, N.F. Railway but to no avail. It is also mentioned that the Book of Sanction for Ministerial Category in the establishment of Dy. C.E., BL, Maligaon as on 10.5.98 stood at 76 and hence, on the basis of the revised percentage as

per the Railway Board's letter dated 10.5.98 for Chief Office Superintendent at 2% of 76 the value becomes 1.52 ( $76 \times 2\% = 1.52$ ) which being rounded off becomes 2 posts. The revised percentage for grade of OS-I was 6% and thus 6% of 76 is 4.56 ( $76 \times 6\% = 4.56$ ) which rounded off becomes 5 i.e. 5 posts of OS-I. Similarly the revised percentage for the Grade of Office Superintendent-II was 12% and thus 12% of 76 is 9.12 ( $76 \times 12\% = 9.12$ ) which rounded off becomes 12 post of OS-II. It is further mentioned that in finalizing the numbers of posts of these grades the benefit of rounding off of 0.5 and above as 1 and the prescribed rule of rounding off the fraction of 0.5 and above as 1 is universal and also accepted by Indian Railway. But the Management has not implemented the principle of this rule in case of the workman. Thereafter the Union raised the Industrial Dispute. It is also pleaded by the Union that beyond the prescribed manner of calculation of number of posts the management allotted higher number of post to other grade of newly created Chief Office Superintendent and existing grade of Senior Clerk excluding the Grade of OS-I and the benefit of evaluating the fraction of 0.5 and above as 01 was given in case of COS and Senior Clerk. While the workman was fit for consideration for promotion to OS-I against any vacancy in 1998 and the workman was not eligible to be considered for promotion in OS-I in 1998 as there was no vacancy. The workman in spite of his sincere effort in amiable settlement of the dispute by filing representation before the Authority as well as on failure of conciliation before the RLC ©, Guwahati this Industrial Dispute was referred to by the Ministry. Hence, the union pointed out that the Management committed error in law as well as fact in denying the promotion of the workman to OS-I by equitable rounding off of fraction to their nearest whole number in the prescribed calculation of number of post in each grade as per the revised percentage and the Book of Sanction as on 10.5.98, violating the provision of Article 14, 16 and 21 of the Constitution of India and against the Rule of Natural Justice. As a result, the workman has been deprived of the prospect of the career and monetary benefit. As such, the Union prayed for granting relief to the workman by directing the management to make available one more post of OS-I with effect from 10.5.98 by determining the number of post of OS-I as 05 post in consequences of implementation of Railway Board Circular dated 10.5.98 and to promote the workman to the post of OS-I with effect from 10.5.98 with consequential and incidental benefit of promotion, to correct all seniority list where the workman has been given wrong seniority position with direction to the Management to implement the award of this Tribunal with effect from 10.05.98.

The Management, on the other hand, pleaded that after restructuring of the post of Office Superintendent-I was made as COS and OS-I distributing the existing 8% for

the OS-I post at 2% and 6%, and the 2% distribution of total cadre strength comes to 1.52 posts for COS and 6% as 4.56 post as 4.56 post. However, 1.52 post has been made as 2 post 4.54 post made as 4 post with a view to give one more staff the benefit of COS permanently by keeping the OS-I post as 4. This was done beyond personal consideration of individual staff but for the benefit of the staff in general without changing the cadre strength. It is also mentioned that the Board has directed that their should not have been any change in other grades; and that the policy circular dated 10.5.98 and clarification dated 25.5.99 implemented in the prescribed manner and the promotional vacancies for COS and OS-I was created on the basis of the prescribed percentage as per the Circular and Clarification issued by the Board. The Management denied the contention of the Union that the Management deprived the workman from application of rounding off rule in arbitrarily and for extraneous reasons. The workman has admitted that BOS of Ministerial category in Dy. CE, Bridge Line, establishment as on 10.5.98 stood as 76. As per revised percentage the post of various category as per the calculation of the Union comes to 77 which was not possible. Thus the benefit of rounding off 0.5 and above as 1 (one) was plied in all cases, where such fraction of 0.5 or above or above across except in OS-I because of clarification issued by the Railway Board vide their letter No. PC-V/98/1/11/12 dated 25.5.99 which stated that the number of post in the grade of 7450-11500 (COS) will be worked out at 2% of the total sanctioned strength of Ministerial staff as on 10.5.98 with corresponding reduction in the grade 6500-10500/- i.e. O.S-I. The Board also specifically mentioned that number of post in other grade shall remain unchanged. As such, it is clear in the light of the Railway Board's letter dated 25.5.99 i.e. number of post in new scale of COS in the grade 7450-11500 with corresponding reduction in Grade 6500-10500 and without affecting the number of post in other grades. On 10.5.98 the number of post in OS-I was 8% of 76 (sanctioned strength) i.e. 6 post and for implementing Board order number of post in new scale Rs.7450-11500/- of COS (2% of 76 sanctioned strength) i.e. 2 posts were created and number of post of OS-I after such creation was (6-2) i.e. 4 post by corresponding reduction and not disturbing number of post in other grades. Further plea of the Management is that the Railway Board's Circular dated 10.5.98 introduced new scale of Pay on functional basis in Ministerial Cadre of Group-C while introducing new pay scale of COS the Board reduced the existing percentage of OS-I from 8% to 6% and adjusted 2% against COS while keeping the remaining percentage of other categories intact. It is further stated that it is not the case of upgradation as one new scale has been created on functional consideration and in the light of the Board's

Circular dated 25.5.99, the number of post in other grades shall remain unchanged, and creation to be effected with corresponding reduction in the grade Rs. 6500-Rs.10,500. Thus the Railway has implemented the policy in the mode and manner as prescribed by the Railway Board in the Circular dated 10.5.98 and 25.5.99 and hence, the decision of Management in creating 4 posts of OS-I was correct and no contrary to Circular or Rules and Provision framed from time to time. As such, the relief as claimed by the Union is not admitted.

The Union by filing additional written statement pleaded that the Railway Board directed to create a new pay scale for newly post of COS in the Ministerial Cadre by reducing the post of OS-I from the existing 8% to 6% of the BOS as on 10.5.98 for all departments other than Accounts: and that the post of COS be maintained at 2% of the BOS so that the reduction from 8% to 6% for the OS-I is conducive for maintaining the existing BOS but the Management abstained from adhering to the direction and created lesser number of post in OS-I; and the Management has avoided to apply rounding off of 4.56 as 5 whereas they have rounded off in all other categories of COS, OS-II, Senior Clerk and Junior Clerk, and it is not correct to hold that the Railway Board have directed that there should not be change in the Grades other than COS and OS-I because by the change the Railway Board mean in this Circular was only in respect of percentage change in the grade of COS and OS-I and other existing percentage

for remaining grades were to remain the same. But the Management has twisted this direction of the Railway Board to mean that no change in number of post in Grades other than COS and OS-I was allowable. Further the number of existing post in Grade of Head Clerk and Senior Clerk were changed in implementing the said Circular of the Railway Board dated 10.5.98, and this change affected the existing number was not available in the implementation of the Railway Board Circular dated 10.5.98. It is added that this change is unavoidable as the upgradation scheme and creation of new scales of COS was also involved with 10% of Head Clerk posts being filled up by upgradation of 10% Senior Clerk in their existing strength; and this rule of rounding off is evident from Railway Board's letter dated 15.12.64. The Union again stated that the contention of the Management that the workman's prayer for restructuring/upgradation of implementation of the Circular dated 10.5.98 in time would have let to 77 number of post. But the Management wrongly and arbitrarily and for extraneous reason have resorted to avoiding of the principle of reducing the number of post in lower grade in case any upgradation/creation of new grade leads to excess over the BOS; and if that would not have been done by the Management one post of Junior Clerk after creation of 2% post of COS would be treated as surplus or not to be filled up then the total number of posts would have been remained as 76 which is shown in the table given below:

Grades	Existing %	Nos. of Staff	Revised %	Nos. of staff
COS	—	—	2%	1.52=2
OS-I	8%	6.08=6	6%	4.56=5
OS-II	12%	9.12=9	12%	9.12=9
Hd. Clerk	25%	19.0=19	25%	19.0=19
Sr. Clerk	35%	26.6=27	35%	26.6=27
Jr. Clerk	20%	15.2=15	20%	15.2=15
				(-) 1
Total	100%	76	100%	76

4. The Union, in order to establish their case, examined 2 witnesses namely Sri Pradip Kr. Saha, Joint. General Secretary, RMU, Pandu as W.W.1 and the claimant/workman Sri Bikash Sarkar, as W.W.2. While the Management examined Sri Amit Kumar, Assistant Personnel Officer, Engineering, Maligaon as MW.1.

Let me discuss the evidence of both the sides alongwith the documents produced by them in order to arrive at a decision on the dispute raised between the parties.

According to the W.W.1 Sri P.K.Saha, the workman joined the Railway service on 20.11.72 as Junior Clerk and promoted as Senior Clerk, Head Clerk, OS-I, OS-II and COS and retired from service as COS in the pay scale of Rs.7450-11500/- from the establishment of Dy.CE, Bridge Line, Maligaon. The workman was promoted to OS-II on 18.11.93, and in the year 1999 the workman was holding the post of OS-II when the Railway Ministry decided to introduce new pay scale in certain categories of staff as recommended by Fifth Central Pay Commission and this



policy incorporated in Railway Board's Circular No.PC-V/98/I/11/18(A) dated 10.5.98 marked as Exhibit-1. As a result of introduction of the new scale of pay in the Ministerial Cadre in Group-C revised percentage of BOS for Ministerial cadre was prescribed which was duly circulated by the Railway for necessary action by the Departments and the Annexure to the said Circular dated 10.5.98 provided for revised percentage for BOS for creation/abolition in number of post in various grades of Ministerial cadres heading "ALL DEPARTMENTS (OTHER THAN ACCOUNTS), Category: Ministerial Staff". According to the said Circular marked as Exhibit-1 the strength of the posts of OS-I in the revised pay scale of Rs.6,500- 10,500/- was reduced from existing 8% to 6% of the BOS as on 10.5.98 for all department other than Accounts but the said Circular was not implemented in due time and manner in the office of the Dy. C.E, Bridge Line, Maligaon and at that time the workman Bikash Sarkar has already put in regular and continuous service of more than the residency period of two years in the Feeder grade of OS-II. He also mentioned that due to non-implementation of the policy Circular dated 10.5.98 in the prescribed and permitted manner of calculation of promotional vacancy for OS-I on the revised percentage, the Management did not revised the BOS for operating 5 numbers of Post of OS-I but maintained only 4 number of posts in the grade of OS-I, and thereby the workman was deprived of being considered for the promotion to the post of OS-I. The W.W.1 also added that the BOS for Ministerial Category in the establishment of Dy. C.D., Bridge Line, Maligaon as on 10.5.98 stood as 76 and hence, on the basis of the revised percentage vide Exhibit-1 for COS at 2% of the 76 the value becomes 1.52 ( $76 \times 2\% = 1.52$ ) which being rounded off becomes 2 posts; and the revised percentage for grade of OS-I was 6% i.e. 6% of 76 is 4.56 ( $76 \times 6\% = 4.56$ ) which is rounded off becomes 5 i.e. 5 Posts of OS-I. Similarly revised percentage in the grade of OS-II was 12% which comes to 9.12 which is rounded off as 12 posts of OS-II. In case of Head Clerk the revised percentage was 25% and thus 25% of 76 is 19 i.e. 19 post of Head Clerk; in case of Sr. Clerk the revised percentage was 35% i.e. 35% of 76 is 26.60 ( $76 \times 35\% = 26.60$ ) which rounded off becomes 27 posts of Sr. Clerk; and the bottom trade of Jr. Clerk the revised percentage was 20% i.e. 20% of 76 is 15.20 ( $76 \times 20\% = 15.20$ ) which is rounded off as 15 posts of Jr. Clerk. The W.W.1 pointed out that in finalizing the number of post of these grades the benefit of rounding off of 0.5 and above as 1 was applied in all cases where such a fraction 0.5 or above arose except in case of OS-I, and rounding off all the fraction of 0.5 and above as 1 is universal and also accepted by the Indian Railway including the present Management as per the Ministry of Railways ( Railway Board Circular No. PC-61/PC-5/MS-1 dated 15.12.1964 vide Exhibit-10. He added that the case of the Union is for right operation of posts in the grades and also for giving the workman his promotion as OS-I, and the said establishment had on Roll as on 10.5.98 only 4 numbers of OS-I within

the prescribed revised percentage of 6% though the number should be 5 Posts of OS-I. But the Management has been refusing to operate 5 numbers of OS-I though there was no bar in doing so within the prescribed percentage of OS-I by creating one number of post of OS-I in addition to the existing 4 numbers of Posts. On the other hand the Management going beyond the prescribed manner of calculation of number of posts allotted higher number of post but other grades of newly created COS and existing grade of Senior Clerk excluding the grade of OS-I from the due increase of one post in the grade; and the benefit of evaluating the fraction of 0.5 and above as one was given in case of COS and Sr. Clerk. As a result when the workman was eligible to be promoted to OS-I in 1998 there was no vacancy. It is further mentioned that the Railway Board directed that the Post of COS be maintained at 2% of the BOS so that the reduction from 8% to 6% in OS-I is conducive for maintaining the existing Circular No.PC-V/98/I/11/12 dated 25.5.99 vide Exhibit-B. Yet the Management abstained from adhering to this direction and created lesser number of post of OS-I. In this connection the workman collected information under RTI Act, 2005 under No. RTI Cell/2007/1792 dated 12.5.2008 covering the formal reply signed by Dy. Director ( Pay Commission) through his memo No. PC-V/2008/RTI/I. He has proved the Exhibit-2 to the letter No.NFR/RTI Cell/2013/5060 dated 20.12.2013 by which some copies of letters forwarded to the workman; Exhibit-3 the letter No.W/G/DCBR/16/RTI/Pt-585 dated 25.11.2013 issued by the Dy. C.E, Bridge Line, Maligaon forwarding some documents supplying information; Exhibit-4 letter No.EW/254/1/PT.II (loose) dated 18.05.07 regarding application of Sri Bikash Sarkar for information under RTI Act, 2005; Exhibit-5 the letter No.Z/RTI Act'05 (loose-XXXVIII) dated 30.04.2007 which is a letter from SDGM-cum-Appellate Authority, N.F.Railway supplying the list of documents as information the Dy. C.E, Bridge Line, N.F.Railway, Maligaon; and the Exhibit-6 (5 pages) are pre page notes marked as PP-5, PP-6, PP-9, PP-10, PP-11 of the office of the Dy. CE, Bridge Line. He also proved the Exhibit-7 the certified copy of the office note dated 4.2.03 and 21.3.03 on the pages No.PP/22; the Exhibit-8 the zerox copy of the charge upgradation of Ministerial cadre of Dy. C.E, Bridge line, Maligaon due to introduction of new scale of Fifth Central Pay Commission in terms of Board's letter marked as Exhibit-1 and Exhibiut-9 is the memorandum of sanction to the creation and abolition of post as per revised percentage of the clerical cadre of Dy. C.E, Bridge Line, Maligaon.

In course of his cross-examination the W.W.1 stated that the introduction of additional pay scale recommendation of Vth CPC dated 10.5.95 was fully implemented by the Railway, and as per Exhibit-1 the restructuring of post has been decreased by 6% in stead of existing 8% against the post of OS-I, while the said 2% of the Post of OS-I has been redesignated as COS and the quota of promotion was fixed at 2% for the post of COS. He also said that on the basis of the existing total strength

of 76 number of post as per Exhibit-1 the number of post of OS-I should have been 4.56 which comes to 5 numbers of all the post of OS-I by rounding off.

The claimant/workman Sri Bikash Sarkar (WW.2) stated that he was an employee of the establishment of Dy. CE, Bridge Line, Maligaon, N.F.Railway and he retired on superannuation on 31.8.12. He was promoted to OS-II on 18.11.93 and was placed in third slot of seniority list of OS-II as on 1.6.98 vide Memo No.EW/255/B/PT.V dated 23.4.98 (Exhibit-11.). Thereafter he was promoted to OS-I on 31.1.01 under Office order No.30/01 circulated vide Memo No.EW/254/1/Pt.IX dated 31.10.01 issued by Dy. CE, Bridge Line, Maligaon marked as (Exhibit-12). He was holding under the policy of restructuring of cadre as adopted by Railway Board in 2003, the post of COS in the scale of pay Rs. 7450- Rs.11,500/- (revised to 9300-Rs.34,800) and Grade Pay Rs.4600 at the time of his retirement on superannuation. He also mentioned that he had a long standing grievance regarding his promotion to the grade of OS-I and then to COS in his seniority list and an Industrial Dispute was raised by the Union for his promotion as per the BOS for OS-I and then for OS-I as per the Circular issued by the Railway Board from time to time. He claimed that he is entitled to the benefit of promotion to the post of OS-I and then in course of Post of COS as provided in the table headed "ALL DEPARTMENTS (OTHER THAN ACCOUNTS), Category : Ministerial Staff" in the policy Circular No. PC-V/98/1/11/18 (A) dated 10.5.98 issued by the Railway Board. He mentioned that 5 post of OS-I and 2 post of COS were to be created in the establishment of Dy. CE, Bridge Line and as he was holding the post of OS-II in the year 99 and the BOS for the Ministerial category in the establishment of Dy. CE, Bridge Line, Maligaon as on 10.5.98 stood at 76. Thus the percentage of BOS for OS-I in the scale of Rs. 6500 to Rs.10,500 was revised from existing 8% to 6% of the BOS in terms of Circular marked as Exhibit-1. Therefore on the basis of the revised percentage for OS-I 6% of 76 arrived at 4.56 ( $76 \times 6\% = 4.56$ ) which rounded off become 5 i.e. 5 post of OS-I but the Management created 4 post of OS-I instead of creating 5 post. On the basis of the revised percentage for COS 2 % of 76 arrived at 1.52 ( $76 \times 2\% = 1.52$ ) which being rounded off becomes 2 i.e. 2 post of COS. But this was not done in case of OS-I by similar rounding off OS-I at 4.56 by rounding off it to 5 posts. The W.W.2 pleaded that the Circular vide Exhibit-1 does not provide for any variation in other ministerial grade of OS-II, Head Clerk, Senior Clerk and Junior Clerk but the management has increased the number of posts of Senior Clerk by one post by resorting to rounding off 26.60 ( $6\% \text{ of } BOS = 76 \times 35\% = 26.60$ ) to 27 posts of Senior Clerk. In fact what was due to workman for his promotion to OS-I was given away to the rank of Senior Clerk by means of rounding off and thereby the workman was deprived of getting promotion to OS-I on the date the vacancy should have arisen out of creation of 5 post of OS-I or natural waste in the incumbency in the grade of OS-I and COS on

the date of the vacancy should have arisen. The incumbent in the grade of OS-I as on 1.4.98 was shown in the seniority list of OS-I published under memo No.EW/255/2 Pt V. dated 23.4.1998 (vide Exhibit-13). He stated that the management allotted higher number of post through the benefit of evaluating the fraction of 0.5 and above as 1 in case of COS and Sr. Clerk but it was not given in case of OS-I and hence, the Railway Board Circular dated 10.5.98 (Exhibit-1) was not implemented by the Management.

In course of his cross-examination the W.W.2 stated that in para-11 of the claim statement the calculation showing the total number of post on the basis of the BOS and percentage of number of post to be promoted has been prepared by him on the basis of the BOS and that he had seen the BOS from the office which he was not authorized to do as it is a confidential thing. He also mentioned that he has shown a total number of strength as 76 as per BOS as mentioned in para-11 of the claim statement. He denied the suggestion tendered by the Management that the total number of post shown as 76 is not correct, and as per the Book of Sanction maintained by the Railway the total number of Post was 75 at the relevant time. He again mentioned that in para-11 of his claim statement total number of post shown as COS-2 numbers, OS-I-5 numbers; OS-II 12 numbers; Head Clerk 19 numbers, Sr. Clerk 27 numbers; Junior Clerk 15 numbers totaling 80, but in his evidence-on-Affidavit the total number of posts shown as COS-2, OS-5, OS-II Nil, Head Clerk- Nil, Sr. Clerk-27 numbers totaling 34 posts. He again stated that as per Railway Board Circular dated 10.5.98 (Exhibit-1) the break up of the posts are as follows:

COS-2 posts i.e. 2%; OS-I —4 i.e. 6%; OS-II-9 i.e. 12%; Head Clerk-19 i.e. 25%; Senior Clerk (Special pay Rs.70/-) -3 posts; Senior Clerk-24 i.e. 35%; Junior Clerk-15 i.e.20% totaling 76 post. He also denied the suggestion tendered by the learned Advocate for the Management that the number of Post of COS is 2; OS-I is 4; and that he is not entitled to get promotion as COS after 2001 in terms of the Circular dated 10.5.98 vide No.PC-V/98/1/2/12 dated 25.5.99 as he was promoted to OS-I on 31.1.01.

The Management in order to defend themselves examined Sri Amit Kumar, Assistant Personnel Officer, Engineering, Maligaon, Guwahati, who deposed that the Railway Board vide Circular dated 10.5.98 (Exhibit-1) introduced new scales of pay on functional basis in certain categories and accordingly the new scale of pay was introduced in Ministerial cadre of group-C. He also mentioned that while introducing new pay scale of COS the Railway Board reduced the existing percentage of OS-I from 8% to 6% and provided 2% against COS while keeping the remaining percentage of other categories intact as per the Railway Board Circular dated 10.5.98 (Exhibit-1). He stated that the sanction cadre strength of 10.5.98 was 76 in the establishment of Dy. CE, Bridge Line and the break up of post has been shown as under:

Chief Office Superintendent-	Nil
Office Superintendent, Grade-I	6
Office Superintendent, Grade-II	9
Head Clerk	19
Senior Clerk	27
Junior Clerk	15
Total.	76

Subsequently the Railway Board vide letter No. PC-V/98/I/II/12 dated 25.05.1999 marked as Exhibit-B had clarified that 5 number of post to be operated in the highest grade of Ministerial Cadre i.e. Rs. 7450 to 11500/- will be determined with reference to the sanctioned cadre strength of Ministerial staff as on 10.5.98; otherwise, the number of post in the grade of Rs.7450 to Rs.11500/- will be worked out at 2% of total strength of sanction of Ministerial Staff as on 10.05.98 with corresponding reduction in the grade Rs.6500 to Rs.10,500; and the number of posts in other grade shall remain unchanged. Therefore the clarification given by Board's letter dated 25.5.99 (Exhibit-B) it has been made clear that the number of post of COS is to be created 2% of the total strength i.e. 2% of 76 = 1.52 rounded off to 2 with corresponding reduction in the post of OS-I (in the scale of Rs.6500 to Rs.10,500/-) i.e. 6-2=4. Accordingly the management created the post of COS by corresponding reduction in the post of OS-I and keeping the number of post in other grades i.e. OS-II, Head Clerk, Sr. Clerk, Jr. Clerk as per Board's Circular (Exhibit-1) in the light of the Railway Board Circular marked as Exhibit-B, it is clear that the number of post in the new scale to be worked out in grade 6500/- to 10,500 without affecting the number of post in other grades. The MW.1 also stated that the promotion of half or more than half has been rounded off of the next full numbers in working out the post in higher grades as per extent instructions except in OS-I because of the clarification issued vide Exhibit-B; and that on 10.5.98 the number of post in OS-I in the scale

of Rs.6500 to Rs.10500 was (8% of 76) i.e. 6 posts and for implementing Board's order introducing new scale of COS in the scale of Rs.7450 to 11500, 2 post were created (2% of 76) and number of post of OS-I and corresponding reduction become 4 posts (6-2) without disturbing the number of post in other grades. As such, the management has implemented the policy in the mode and manner as prescribed in the Board's Circular dated 10.5.98 and 25.5.99 and hence, the decision of the management in creating 4 posts of OS-I was correct and not contrary to the Circular or Rules and Provision framed from time to time.

5. I have heard argument from both the sides at length. On perusal of the evidence of W.W.1 and the W.W.2 it appears that the workman Sri Bikas Sarkar joined the Railway service on 20.11.73 as Junior Clerk and he retired as Chief Office Superintendent on superannuation on 31.8.12 from the establishment of Dy. C.E., Bridge Line, Maligaon, N.F.Railway. In the year 1998 the Railway Board vide their Circular marked as Exhibit-1 introduced new pay scale in certain categories of Group-C staff as recommended by Fifth Central Pay Commission resulting in revision in percentage of Book of Sanction of Ministerial grade, and at that time the workman was holding the post of OS-II. As per the Railway Board's Circular marked as Exhibit-1 the strength of the post of OS-I in the revised pay scale of Rs.6500 to Rs.10500 was reduced from existing 8% to 6% of the Book of Sanction as on 10.5.98 for all department other than Accounts Deptts. But the said Circular was not implemented in due time and manner in the office of the Dy. CE, Bridge Line, Maligaon, for which the workman deprived of getting the promotion to the post of OS-I as alleged.

According to Annexure with the heading "All DEPARTMENTS (OTHER THAN ACCOUNTS), category Ministerial staff" to the Railway Board Circular dated 10.5.98 (Exhibit-1 the revised percentage of the Book of Sanction is as follows:-

Designation	Pay scale	Percentage existing	Percentage revised	Remarks	Classification and procedure for Filling up of posts Introduced now.
Junior Clerk	3050-4590	20%	20%	Existing.	
Sr. Clerk	4500-7000	35%	35%	Existing.	
Head Clerk	5000-8000	25%	25%	Existing	
Office Supdt. Gr. II	5500-9000	12%	12%	Existing	
Office Supdt. Gr. I	6500-10500	8%	6%	Existing	
Chief Office Supdt.	7450-11500	-	2%	New Scale	Selection.



6. The plea of the Union is that at the time of implementation of the Railway Board Circular marked as Exhibit-1 the calculation of promotional vacancy for OS-I on the basis of the prescribed revised percentage was not done by the Management properly, and thereby the Management did not revise the BOS for operating 5 numbers of post of OS-I but maintained only 4 number of post in the Grade of OS-I. The Union pointed out that the BOS in the Ministerial category in the establishment of Dy. CE, Bridge Line, Maligaon as on 10.5.98 was 76 and hence, on the basis of revised percentage as per the Annexure to the Board's Circular dated 10.5.98 as mentioned above the post of OS-I was 6% of 76 i.e. 4.56 ( $76 \times 6\% = 4.56$ ) which rounded off becomes 5 i.e. 5 post of OS-I while the Management is operating 4 numbers of post of OS-I violating the universal and accepted number of rounding off the fraction of 0.5 and above as one depriving the workman from application of this rule arbitrarily in violation of Ministry of Railway's (Railway Board Circular No.PC-61/PC-5/MS-1 dated 15.12.1964, (Exhibit-10) which provided that a fraction of half or more than half may be rounded off to the next full number in working out the post in higher grades under upgrading order issued from time to time. It is also alleged that the Management has created 2 posts of COS in the establishment of Dy. CE, Bridge Line, Maligaon on the basis of 2% of the total strength (BOS) of Dy. CE, Bridge Line, Maligaon calculating as ( $2\% \text{ of } 76 = 1.52$ ) which was rounded off 2 posts COS, and Thereby the Management discriminated in calculating the Post of OS-I in revising under the Railway Board Circular dated 10.5.98 keeping the strength of the remaining cadres intact.

7. The Management, on the other hand, took the defence that the Railway Board issued Circular dated 10.5.98 (Exhibit-1) introducing new scales of pay of functional posts in certain categories and accordingly new scale of pay was introduced in the Ministerial cadre of Group-C under Dy. CE, Bridge line, Maligaon, and as per the said Circular the Railway Board reduced the existing percentage of OS-I from 8% to 6% and provided 2% against COS while keeping the remaining percentage of other categories intact as per the Railway Board's Circular dated 10.5.98. Subsequently the Railway Board issued another Circular letter No.PC-V/98/1/II/12 dated 25.5.99 (vide Exhibit-B) clarifying that the numbers of posts to be operated in the highest grade of Ministerial cadre i.e. Rs.7450/- to Rs.11500/- will be determined with reference to the sanctioned cadre strength of Ministerial Staff as on 10.5.98, otherwise the number of post in the Grade of Rs.7450/- to Rs.11500/- will be worked out at 2% of total strength of sanctioned of Ministerial staff as on 10.5.98 with corresponding reduction in the grade of Rs.6500/- to Rs.10,500/- and the number of post in other grade shall remain unchanged. Accordingly the number of post of COS was created on the basis of 2% of the total strength i.e.  $2\% \text{ of } 76 = 1.52$  which is rounded off as two too with corresponding reduction in the post of OS-I (Scale Rs.6500/- to Rs.10,500/-) without affecting the number of

post in other grades. Hence, the Management has implemented the policy in the moot and manner as prescribed in the Circular dated 10.5.98 and 25.5.99.

8. During argument Mr. M.K.Das, the General Secretary, RMU, submitted that in the establishment of Dy. CE, Bridge Line, Maligaon, N.F.Railway, the BOS (total strength of other) was 76 and the Railway Board Circular marked as Exhibit-1 was issued with a view to creation of new post namely COS by curving out 2% of post from the existing 8% of post of OS-I and hence, the effect would be introduction of 2% of 76 post in the COS scale with corresponding reduction of 2% post in OS-I. But the whole operation of introduction of the new scale of COS the implementation is to be confined to the COS and OS-I leaving the strength of other grades untouched; and on the cut off date i.e. 10.5.98 the workman was OS-II and by the time it was implemented in the establishment, the workman completed 2 years residency period OS-II to be eligible for promotion to OS-I. He also added that with reduction of the strength to 6% from OS-I the resultant figure would be 6% of 76 sanctioned post of the Ministerial cadre (i.e. 4.56 post) and rounding off it in terms of Exhibit-10 the number of 4.56 post becomes to 5 posts while the Management had been operating only 4 posts of OS-I and refused to increase 4 post to 5 posts so that the workman could be accommodated to OS-I on promotion upon implementation of the Railway Board Circular dated 10.5.98. Mr. Das further argued that the Management have implemented the percentage at the rate of 2% in case of COS while they have maintained 4 number of post of OS-I violating the principle of the Railway Board Circular dated 10.5.98 and the principle laid down in calculating as regards to creation of post in higher grades as per the Railway Board Circular dated 15.12.64 and thereby the Management deprived the workman in giving benefit of rounding off to the post of COS and Senior Clerk.

9. Mr. S.N.Choudhury, learned Advocate for the Management, assailing the argument of Mr. M.K.Das, General Secretary, RMU, submitted that the Railway Board vide their Circular dated 10.5.98 introduced new scale of pay on functional posts in certain categories of Ministerial cadre of group-C and the Management of N.F.Railway while introducing new pay scale of COS reduced the existing percentage of OS-I from 8% to 6 % and provided 2% against COS keeping the remaining percentage of other categories intact. He also pointed out that the Railway Board vide their letter dated 25.5.99 (Exhibit-B) has made it clear that the number of posts to be operated in the highest grade of Ministerial cadre i.e. Rs.7450/- to Rs.11,500/- will be determined with reference to the sanctioned cadre strength of Ministerial cadre as on 10.5.98 i.e. 2% of total sanctioned strength of Ministerial staff as on 10.5.98 with corresponding reduction in the grade of Rs.6500/- to Rs.10,500/- i.e. the post of OS-I; and that the number of posts in other grades shall remain unchanged. Accordingly the Management has been operating 2% of total strength of 76 number of post i.e. ( $2\% \text{ of } 76 = 1.52$  rounded off to 2 (two) with corresponding reduction in the post of OS-I in



the scale of Rs.6500/- to Rs.10,500/- i.e. existing number of post of 6 - 2=4. Mr. Choudhury, Learned Advocate for the Management of N.F. Railway also pointed out that the policy of rounding of  $\frac{1}{2}$  or more than  $\frac{1}{2}$  to the next full numbers in working out the post in higher grades was followed while calculating the number of post of COS but the same instruction could not be followed because of clear direction issued by the Railway Board vide their letter dated 25.5.99 (Exhibit-B), that the post in higher grade is to be created with corresponding reduction in the number of post of OS-I and without affecting the number of post in other grades. Hence, the Management has not committed any irregularity or illegality in creating 2 numbers of posts of COS reducing two number of post of OS-I.

The Ministry of Railways/Railway Board in pursuance of the recommendations of Fifth Central Pay Commission, have decided to introduce new scale in certain categories as indicated in the Annexure to their letter No. PC-V/98/1/II/18(A) dated 10.5.98 (Exhibit-1), with a view to simplify the procedure & in this regard introduced new scales of pay in accordance with the percentages/numbers indicated in the Annexure and certain instruction has been issued for the purpose of implementing this order which has been reproduced below :-

“ Date of effect.

(a) The number of posts to be operated in these scales will be with reference to the sanctioned cadre strength as on the date of issue of these orders. Staff who are placed in the higher grades as a result of implementation of these orders will draw pay in the respective higher grade with effect from the date of issue of these orders.

#### **Applicability to various Cadres**

(b) (i) These orders will be applicable to regular cadres on Open Line Establishment including Workshops and Production Units and will include posts of rest givers and leave reserves.

- (ii) These orders will not be applicable to ex-cadre and work charged posts which will continue to be based on worth of charge.
- (iii) These instructions will also not be applicable to Construction Units and Projects.

#### **Pay Fixation**

(c) Staff selected and posted against the higher grade posts as a result of introduction of the new scales will have their pay fixed under [Rule 1313 (R-II) (FR-22-I(a)1] with the usual option for pay fixation as per extant instructions.

#### **Classification and filling up of the vacancies**

(d) The classification of the posts and other related issues have been mentioned in the Annexure attached.

#### **Minimum years of Service for promotion to new grade**

(e) The normal minimum eligibility condition of 2 years/ 3 years service in the immediate lower grade, as appropriate will apply as usual.

#### **Basic functions, duties and responsibilities**

(f) Since the posts are being created on functional considerations, such posts should be pin-pointed and should include duties of higher importance. The benefit will become admissible only to the duly selected staff, and that too after they move to the pin-pointed posts.

#### **Specific instructions given in the foot note of annexure**

(g) While implementing these orders, specific instructions given as foot note, if any, against any category in the enclosed annexure should be strictly and carefully adhered to.”

The Annexure in heading “ALL DEPARTMENTS (OTHER THAN ACCOUNTS) Category : Ministerial Staff” to the aforesaid letter marked as Exhibit-1 appears to be relevant in the instant reference since the dispute is relating to the Ministerial Staff namely Junior Clerk, Sr. Clerk, Head Clerk, Office Superintendent-II, Office Superintendent-I, Chief Office Superintendent under the Dy. CE, Bridge Line, which is shown below:

#### **All Departments other than Accounts Category : Ministerial Staff :**

Designation	Pay scale	%tage existing	%tage revised	Remarks	Classification and procedure for Filling up of posts Introduced now.
Junior Clerk	3050-4590	20%	20%	Existing.	
Sr. Clerk	4500-7000	35%	35%	Existing.	
Head Clerk	5000-8000	25%	25%	Existing	
Office Supdt. Gr. II	5500-9000	12%	12%	Existing	
Office Supdt. Gr. I	6500-10500	8%	6%	Existing	
Chief Office Supdt.	7450-11500	-	2%	New Scale	Selection.

10. From the above statement annexed with the letter marked as Exhibit-1 as mentioned above, it appears that as per new pay scales in accordance with the recommendation of Fifth Central Pay Commission the Ministry of Railway has decided to introduce new scale of pay in accordance with the percentages/numbers creating new post in higher grades on functional consideration without affecting the total strength. From the said Annexure it is clear that 2% of the total strength of the BOS to be filled up against the posts introduced due to introduction of new scales of pay i.e. 2 numbers of posts of COS has been created while the OS-I (Scale of Rs. 6500 to Rs.10,500/-) has been reduced to 6% from 8% of the total strength keeping the percentage and total strength of other posts such as Junior Clerk, Sr. Clerk, Head Clerk, Office Superintendent-II, remaining the same. Thereby due to reduction of 2% of the Post of OS-I the number of 6 posts of OS-I in the establishment of Dy.CE, Bridge line, Maligaon as on 10.5.98 has come down to 4 & in order to comply with the clarification issued by the Railway Board vide their letter dt. 25.5.99 marked as Exhibit-B the Management of N.F.Rly. has ignored the instruction contained in the Railway Board's letter dt. 15.12.64 (Exhibit-10).

11. The allegation of the Union is that the Management of N.F.Railway committed illegality in calculating the number of post of OS-I since they have reduced to the 4 number of post of OS-I from 6 number of post. The Union also pointed out that in calculating the 6% of the existing strength of 76 numbers of Ministerial staff which should have been 6% of 76 = 4.56 i.e. which rounding off should be 5 and instead of operating 5 numbers of post of OS-I the Management has provided 4 numbers of Post of OS-I violating the universal principle of benefit evaluating the fraction of 0.5 and above as 01 as well as the clarification dated 15.12.64 by the Railway Board vide their letter marked as Exhibit-10. It is also alleged by the Union that the workman Sri Bikash Sarkar was OS-II at the time of introduction of new scales of certain categories as on 10.5.98 and due to non-implementation of the said new policy the workman was deprived of getting promotion to the post of COS.

It is an admitted fact that there was 76 number of Ministerial Staff under Dy. CE, Bridge Line, N.F.Railway, Maligaon and after implementation of the Board's Circular marked as Exhibit-1 the total strength has been remain the same and thereby created 2 numbers of post of COS (Scale of Rs.7450- Rs.11500/-) decreasing 2 numbers of post of OS-I from 6 to 4 numbers ( Rs.6500- Rs.10,500) without changing the number of post in other grades. The Railway Board Circular dated 10.5.98 ( Exhibit-1) has also made it clear that the new scale of pay of COS ( Rs.7450- Rs.11500) is to be created as 2% of the total sanctioned strength i.e. 2% of 76 = 1.52 rounding off 2 posts. Further the Railway Board issued another Circular being No. PC-V/98/1/II/12 dated 25.5.99 marked as Exhibit-B wherein it has been

clarified that the number of post to be operated in the highest grade of Ministerial Cadre i.e. Rs.7450- Rs.11,500 will be determined with reference to the sanctioned cadre strength of Ministerial Staff as on 10.5.98 the number of post in the grade of Rs.7450- Rs.11,500/- will be worked out at 2% of the sanctioned strength of the Ministerial staff as on 10.5.98 with corresponding reduction in the grade of Rs.6500 to Rs.10,500; and the number of post in the other grades shall remain unchanged. Thus it is clear that the Management of N.F.Railway has rightly implemented the Railway Board Circular marked as Exhibit-1 and also followed the subsequent clarification issued by the Railway Board vide their letter marked as Exhibit-B.

12. On careful scrutiny of the Railway Board's Circular dated 10.5.98 (Exhibit-1) and the subsequent clarification issued by the Railway Board vide Exhibit-B it is found that the Railway Board has specifically mentioned that the number of post in the Grade of Rs.7450 to Rs.11,500 (i.e. the Post of COS) will be worked out at 2% of the total strength of the Ministerial Staff as on 10.5.98 with corresponding reduction in the grade of Rs.6500 to Rs.10,500/- ( i.e. the post of OS-I), without changing the number of Post in the other grades. In the instant case, the strength of the staff of Dy, CE, Bridge Line, as on 10.5.98 was 76 including 6 numbers of post of OS-I. After implementation of the policy of introduction of Additional pay scale recommendation of Fifth Central Pay Commission as per the instructions/clarifications contained in Exhibit-1 and Exhibit-B the Management created 2 post of COS (Scale of Rs.7450- Rs.11,500) and reduced 2 number of post of OS-I ( Scale of Rs.6500 to Rs.10,500) keeping the number of post in other grades unchanged. Further the allegation of violation of the guidelines issued by the Railway Board's letter dated 15.12.64 marked as Exhibit-10 made by the Union also cannot be entertained since the Railway Board in order to avoid to conflict in regard to the percentage of rounding off the fraction issued clarification vide their letter marked as Exhibit-B specifying the percentage to be created for higher post i.e. COS reducing the grade (scale of Rs.6500-Rs.10,500/-). It is also found that the Management has followed the clarification regarding computation of percentage issued by the Railway Board vide their letter marked as Exhibit-10 in creating 2 numbers of post of COS (Rs.7450-Rs.11,500/-), while strictly followed the instruction/clarification in reducing the 2 numbers of post of OS-I as per the Railway Board Circular/clarification marked as Exhibit-1 and Exhibit-B; and the N.F.Railway is bound to follow the instruction & clarification of their highest authority i.e. the Ministry of Railway ( Railway Board). Thus it is clear that the Management have not committed any illegality or irregularity in implementing the new scale of pay in accordance with the percentage/numbers creating new posts in higher grade on functional consideration.

13. In view of my discussion and the finding arrived at as above, it can safely be held that the Management of N.F. Railway, Maligaon has not committed any illegality or irregularity nor violated the principle of natural justice in creating less number of posts in restructuring and thereby not allowing the promotion of Sri Bikash Sarkar to the next higher grade w.e.f. 16.5.95 as per the Railway Board instructions. Accordingly this reference is decided in affirmative against the Union.

Send the Award to the Ministry as per procedure.

L. C. DEY, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 336.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 61/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/11/2012-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 336.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 61/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 18/02/2015.

[No. L-12012/11/2012-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/61/2012

Shri Ashok Kumar Rajak,  
S/o Shri Bhagwanlal Rajak,  
R/o ward No. 11, Maghaiya Mohalla,  
Purana Bazar,  
Bhitwarwar,  
Distt. Gwalior (MP)

...Workman/Union

#### Versus

Chief General Manager  
State Bank of India

Local Head Office,  
Hoshangabad Road,  
Bhopal

...Management

#### AWARD

Passed on this 22nd day of January, 2015

1. As per letter dated 2-4-12 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-12012/11/2012-IR(B-I). The dispute under reference relates to:

“Whether action of the management of Chief General Manager, State Bank of India, Bhopal in terminating the services of Shri Ashok Kumar Rajak S/o Bhagwanlal Rajak from service w.e.f. 10-12-09 is legal and justified? To what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim. Management of SBI filed Written Statement and documents.

3. Workman submitted application for withdrawal of the case. He submits that department has given assurance to fulfill his claim and nothing remain for decision. It is not admitted by counsel for IInd party for want of information. Above fact was brought to notice of workman. On that workman as well as his counsel Shri R.K. Soni submits that workman is ready to withdraw his claim unconditionally. As such the dispute between parties is not prosecuted by workman. Therefore the reference stands disposed off as no dispute award.

R. B. PATLE, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 337.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 58/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-41012/99/2007-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 337.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 58/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Uttar

Railway and their workmen, received by the Central Government on 18/02/2015.

[No. L-41012/99/2007-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, LUCKNOW**

**PRESENT : RAKESH KUMAR**, Presiding Officer

**I.D. No. 58/2007**

Ref. No. L-41012/99/2007 – IR (B-I) dated: 15.10.2007

**BETWEEN:**

Sri Suresh Chander S/o Late Lalla Nivasi  
758, Back of Sabji Mandi  
Mahavir Floor Mill, Bachhaaran  
Raibareli

AND

The Divisional Railway Manager  
Northern Railway  
Administrative Office, NE Rly.  
Hazratganj  
Lucknow

**CORRIGENDUM**

1. By order No. L-41012/99/2007 – IR (B-I) dated: 15.10.2007 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Sri Suresh Chander S/o Late Lalla Nivasi, 758, Back of Sabji Mandi, Mahavir Floor Mill, Bachhaaran, Raibareli and the Divisional Railway Manager, Northern Railway, Administrative Office, NE Rly., Hazratganj, Lucknow for adjudication; and this Tribunal adjudicated the said reference vide its award dated 10.07.2014; wherein some typographical error has been committed in para 20, 9th line of the said award.

2. Therefore, following correction is being incorporated in the award dated 10.07.2014 of this Tribunal:

“The name of the workman, mentioned as “Virendera Kumar”, in 9th line of para 20 be read as “Suresh Chandra”.

LUCKNOW  
22.12.2014

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 338.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोर वैश्य बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 99/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-12011/68/2014-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 338.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 99/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Karur Vysa Bank and their workmen, received by the Central Government on 18/02/2015.

[No. L-12011/68/2014-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
CHENNAI**

Tuesday, the 13th January, 2015

**Present : K.P. PRASANNA KUMARI**, Presiding Officer

**Industrial Dispute No. 99/2014**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Karur Vysya Bank and their workman)

**BETWEEN:**

The General Secretary : 1st Party/Petitioner Union  
Karur Vysya Bank  
Employees Union  
C/o Cooperative House,  
New No. 5, 4th Street  
Sourashtra Nagar  
Choolaimedu

AND

The General Manager (HR) : 2nd Party/Respondent  
Karur Vysya Bank  
Central Office, Erode Road  
Karur-639002

**Appearance :**

For the 1st Party/ : M/s V. Ajoy Khose,  
Petitioner Union Advocates  
For the 2nd Party/ : M/s R. Jayaprakash,  
Respondent Advocates



**AWARD**

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/68/2014-IR (B.I) dated 27.10.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Management of Karur Vysya Bank regarding outsourcing of manpower for night clearing of cheques in justified or not? If not, to what relief the workman is entitled?”

2. On the receipt of the Industrial Dispute this Tribunal has numbered it as ID 99/2014 and issued notice to both sides. Both sides have entered appearance through their counsel.

3. The ID was being posted for filing of Claim Statement by the Petitioner. On four hearing dates, the case was postponed for the purpose of filing Claim Statement. But so far Claim Statement has not been filed. On the last two hearing dates, neither the petitioner nor his counsel were present, nor was there any representation. The assumption to be made is that the petitioner is not interested in pursuing the case. So the proceedings is only to be closed.

4. The ID is closed. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

**Witnesses Examined:**

For the 1st Party/Petitioner Union : None

For the 2nd Party/Management : None

**Documents Marked:****On the petitioner's side**

Ex.No.	Date	Description
		N/A

**On the Management's side**

Ex.No.	Date	Description
		N/A

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 339.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 88/13) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/02/2015 को प्राप्त हुआ था।

[सं. एल-12011/41/2013-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 339.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 88/13) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 18/02/2015.

[No. L-12011/41/2013-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/88/13**

General Secretary,  
Dainik Vetan Bhogi Karmchari  
Sangathan, F-1, Tripti Vihar,  
Opp Engg. College,  
Ujjain

...Workman/Union

**Versus**

Chief General Manager  
State Bank of India  
Local Head Office,  
Hoshangabad Road,  
Bhopal

...Management

**AWARD**

Passed on this 22nd day of January, 2015

1. As per letter dated 8-8-2013 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-12011/41/2013-IR(B-I). The dispute under reference relates to:

“Whether Shri Ashok Kumar Rajak is entitled for difference of wages from 8-4-92 to 10-12-09 as claimed by Union?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim. Management of SBI filed Written Statement and documents.

3. Workman submitted application for withdrawal of the case. He submits that department has given assurance to fulfill his claim and nothing remain for decision. It is not admitted by counsel for Ist party for want of information. Above fact was brought to notice of workman. On that workman as well as his counsel Shri R.K. Soni submits that workman is ready to withdraw his claim unconditionally. As such the dispute between parties is

not prosecuted by workman. Therefore the reference stands disposed off as no dispute award.

R. B. PATLE, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 340.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ हैदराबाद के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 67/2005 एवं 39/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/223/2005-आईआर (बी-1),

सं. एल-12025/01/2015-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 340.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2005 & ID No. 39/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of State Bank of Hyderabad and their workmen, received by the Central Government on 18/02/2015.

[No. L-12012/223/2005-IR (B-I),

No. L-12025/01/2015-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

**Present:** - Smt. M. Vijaya Lakshmi, Presiding Officer

Dated the 29th day of December, 2014

#### COMMON AWARD

#### IN

#### INDUSTRIAL DISPUTE Nos.

#### L.C. 67/2005 and ID. 39/2006

#### Between :

Sri K. Santhosh Kumar,

S/o K. Satyanarayana,

C/o A.P. Industrial Employees Union,

“House of Labour”, King Kothi road,

Hyderabad -29

...Petitioner

AND

1. The Dy. General Manager,  
Personal department,  
State Bank of Hyderabad,  
Gunfoundry Head Office,  
Hyderabad .

2. The Branch Manager,  
State Bank of Hyderabad,  
Bellavista Branch, Somajiguda Branch,  
Hyderabad  
...Respondents

#### Appearances:

For the Petitioner : M/s. V. Viswanatham &  
R. Dushyantala, Advocates

For the Respondent : M/s. Ch. Siva Reddy &  
T. G. Prasad Reddy, Advocates

#### COMMON AWARD

Sri K. Santhosh Kumar invoking Sec.2A(2) of Industrial Disputes Act, 1947 (who will be referred to as workman) has filed this petition against the Respondents seeking for passing an award directing the Respondent to reinstate the Petitioner into service from 6.6.2005 with full back wages and all other attendant benefits with continuity of service and to pay interest @ 12% p.a. on the back wages and costs.

2. While so a reference in ID No. 39/2006 has been received by this forum from Government of India, Ministry of Labour and Employment, New Delhi vide order No.L-12012/223/2005-IR(B-I) dated 26.6.2006, whereunder, this forum has been invited to give award on the question of,

“Whether the action of the management of State Bank of Hyderabad, not regularising the services of Sri K. Santosh Kumar, Casual Labour, is legal and justified? If not, what relief the workman is entitled to?”

By virtue of the order dated 11.9.2008, these two cases i.e., LC 67/2005 and ID 39/2006 were clubbed together and the proceedings were conducted commonly for both these matters in LC 67/2005.

3. The claim statements filed by the Petitioner in ID 39/2006 and in LC 67/2005 are one and the same.

4. The averments made in the claim statement as well as in the claim petition by the Petitioner in brief are as follows:

It has been stated by the Petitioner that he was appointed by the Respondent as casual labour in September, 2001 and was posted under 2nd Respondent where the Petitioner worked for more than 240 days continuously without any break in that year on a wage of Rs.50/- per day. The Petitioner has worked in that capacity for more than 14 years but he was not made regular. When the Petitioner insisted for regularization and asked for the correct payment of wages then the services of the

Petitioner were terminated on 6.6.2005 without any written order or following the due procedure. Before that the Petitioner made a representation dated 19.5.2005 to regularize his services and pay arrears of wages as per the wages paid to the casual labourer of Kakatiyanagar branch who raised ID No.35/2001 which was decided on 24.9.2002 and the casual labour of the Kakatiyanagar branch were given wages as per rules and they were also paid arrears of the wages. The Petitioner moved a petition to follow the procedure of 1/3rd pay after two years one half of pay after another two years and 3/4th pay after another two years. The Petitioner further served a reminder on 31.5.2005 but no action was taken by the Respondent management. The action of the management in orally terminating the services of the Petitioner is illegal and against the principles of Industrial Disputes Act, 1947. The Hon'ble High Court of A.P. in WP No.15555/93 directed the Respondent to consider the cases of the Petitioners of that case. Another WP No.18436/2004 decided on 11.10.2004, the Hon'ble High Court of A.P., directed the Respondent to pass appropriate order on the observations of the regular employees. But the Respondent has not obeyed that order also. Hence, this petition.

5. The Respondent management has filed counter statement with the averments in brief as follows:

They have challenged the maintainability of the claim petition. The Respondent has submitted that the Petitioner has not worked for more than 240 days. He was not on the rolls of the bank as such, the question of termination of the services did not arise. The allegation to this effect is baseless and misconceived. The bank has never engaged Petitioner in their employment nor the vacancies were notified, the Petitioner was engaged for casual work when his services were required by the bank. He was never employed as regular or a full day worker. He is not entitled for the benefit sec.25F of the Industrial Disputes Act, 1947, because he was engaged to work as and when the bank required services of the Petitioner he was employed for that date only. The Petition has no force and deserves to be rejected or dismissed. The Petitioner can not claim any advantage from the order passed in WP No.15555/93 or WP No.18436/2004 because the Petitioner was not a party to this petition.

6. To substantiate the contentions of the Petitioner WW1 was examined and Ex.W1 to W20. On behalf of the Respondent bank MW1 has been examined and Ex.M1 to M6 documents were marked.

7. Heard the arguments of the either party.

8. Point that arises for determination is:

Whether the Petitioner is workman and whether termination of his services is legal and justified? If so, to what relief the Petitioner is entitled?

#### 9. Point:

As far as the present dispute is concerned, through the documents filed by Petitioner workman coupled with his own oral evidence as WW1, Petitioner could establish before this court that he has been working as casual labour with the Respondent bank since September, 2001. Sri Ch. Surender Raju, Chief Manager of the Respondent bank who has been examined as MW1 could not deny regarding the correspondence i.e., Ex.W2, W3, W5 and W8 when they were confronted to him. Thus, it can safely be taken that Petitioner has worked with the Respondent bank since September, 2001 as casual labour and therefore, he is a workman for all purposes. Contra contentions of the Respondent are not acceptable.

10. As can be gathered from the material on record, Petitioner who applied for his absorption in bank's regular service by making applications time and again and whose case has been recommended by the then Branch Manager, as can be gathered from Ex.W2 and W3, has raised an industrial dispute seeking for regularization of his service with the Respondent bank by approaching Assistant Labour Commissioner (C). Assistant Labour Commissioner (C) has made efforts to conciliate the matter, and evidently such conciliation proceedings failed.

11. While things stood so, instead of regularising the Petitioner's services, the Respondent bank has chosen to remove him from service abruptly w.e.f. 6.6.2005. There on Petitioner is constrained to approach this forum by filing this dispute seeking for his reinstatement into service.

12. Evidently and admittedly there is no compliance of Sec.25F of Industrial Disputes Act, 1947, while removing the Petitioner from service. It is the contention of the Respondent that since the Petitioner is not a workman and Industrial Disputes Act, 1947 does not apply to him, there was no compliance of Sec.25F of Industrial Disputes Act, 1947.

13. As already observed above, the material on record clearly discloses that Petitioner has been in continuous service as casual labour with the Respondent since September, 2001 and thus he is a workman. Thus, the provisions of Industrial Disputes Act, 1947 will apply to him. Therefore, his retrenchment/removal from service without complying with Sec.25F of the Industrial Disputes Act, 1947 is certainly illegal, unjust and arbitrary.

14. It is the contention of the Respondent that the principles laid down in the cases of Official Liquidator Vs. Dayanand and others(2008) 10 SCC page 1 whereunder principles laid down in the case of Umadevi Vs. State of Karnataka (2006) 4 SCC page 1 has been upheld, are applicable to the present case and that Petitioner is not entitled for the relief sought for.

15. In the above cited cases Hon'ble Supreme Court has considered the acceptable mode of public employment

and non acceptable regularization of services of the persons who entered into the service by back door methods, thereby defeating the opportunity of the general public to compete for appointment to the said post etc.. Present dispute is an industrial dispute. Industrial Law is totally different from Civil Law/ Administrative Law. Regularization of casual workman as regular workman etc., are all governed by the industrial laws, rules and various circulars issued by the government from time to time touching these aspects. Public employment under Civil Law/Administrative Law is totally different.

16. Further more, in this case Petitioner is not seeking for regularization of his services. What all he is questioning is the correctness of abrupt termination of his services when he questioned the inaction on the part of the Respondent bank regarding his plea for regularization of his services, that too without complying with the Sec.25F of the Industrial Disputes Act, 1947.

17. In spite of their own admission in their counter that “Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) had issued a circular No.F-3/3/104/87-IR dated 6.8.1990, directing that all recruitment of temporary employees in the clerical/subordinate cadre shall be stopped forth with and that for the staff which was then on the rolls of the Banks, they shall be regularized as provided in the approach paper in terms of the circular issued at that time.”, the Respondent bank, evidently failed to take appropriate action, in connection with the claims of the Petitioner.

18. Anyway, the question whether Petitioner is entitled for regularization of services or not is not the subject matter in this petition. Even if the same is subject matter in this petition, since it is an industrial dispute, the principles laid down in the above cited cases are not applicable.

19. For all the above referred reasons, the principles laid down in the above cited cases relied upon by the Learned Counsel for the bank are not helpful to his contentions in this case.

20. There are umpteen number of legal precedents laid down by the Apex Court whereunder it is clearly laid down that the workman who is removed from service without complying with the mandatory conditions laid down in Sec.25F of the Industrial Disputes Act, 1947 is to be ordered to be reinstated into service. Thus, the Petitioner, who is found to be a workman, is entitled to be reinstated into service of the bank w.e.f. 6.6.2005 with the benefit of continuous service. As far as back wages are concerned, since he did not render his service to the bank, but not due to his own fault, he is entitled for at least 50% of the back wages which he would have earned but for his removal from service.

This point is answered accordingly.

### Result :

In the result, petition is allowed. Petitioner shall be reinstated into service of the Respondent bank as casual labour w.e.f. 6.6.2005 with continuity of service. He shall be paid 50% of the back wages also, forth with.

Award passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

### Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri K. Santosh Kumar	MW1: Sri Ch. Surender Raju

### Documents marked for the Petitioner

- Ex.W1: Copy of identity card of WW1
- Ex.W2: Copy of proposal for sanction consolidate wage to give post of Peon on consolidate wages
- Ex.W3: Copy of proposal for sanction of post of Peon/ Lunch Room Attendant/Water Boy on consolidate wage to the AGM and DGM Dt.22.5.2003
- Ex.W4: Copy of Peon Delivery book dt.3.10.2001
- Ex.W5: Copy of Ir.No.PER/GR.VI/F.22/2279 from the Personnel manager, Admn. to the Regional Manager, for permanent absorption under ID Act dt.11.3.1989
- Ex.W6: Copy of Ir. Dt.29.12.99 reg. Absorption of temporary employees on consolidate wage
- Ex.W7: Copy of Lr.No.F/Premises/1028 dt.25.10.2004 to the AGM, to create the post of sweeper cum water boy
- Ex.W8: Copy of Lr. No.F/Misc./1436 dt.21.3.2005 to Sub-Post Master, APSEB, Vidyutsoudha to hand over the cheque to WW1
- Ex.W9: Copy of Lr. Dt.30.4.2005 By Respondent to the Special Assistant, RTA Extn., Bellavista to send cash remittance of Rs.50000/- through WW1
- Ex.W10: Copy of Lr. Dt.20.5.2005 By Respondent to the Special Assistant, RTA Extn., Bellavista to send cash remittance of Rs.1,10,000/- through WW1
- Ex.W11: Copy of demand notice dt.19.5.2005 by WW1 to the Respondents for his promotion to next grade
- Ex.W12: Receipts of courier of Ex.W11 dt.19.5.2005
- Ex.W13: Copy of Lr.dt.28.5.2005 By Respondent to the Special Assistant, RTA Extn., Bellavista to send cash remittance of Rs.10000/- through WW1
- Ex.W14: Copy of circular dt.5.6.2002 No.PER/2002-2003/ 15 directions by Head office to pay Bonus



- Ex.W15: Copy of circular dst.3.6.2005 No.PER/GR/IV/ Misc./1297 issued by Head Office o all the branches to terminate the candidates
- Ex.W16: Copy of Lr. Dt.6.6.2005 by Respondent to the Special Assistant, RTA Extn., Bellavista to send cash remittance of Rs.1,00,000/- through WW1
- Ex.W17: Copy of Lr.From DGM/Per. & HRD to the State President, A.P. Industrial Employees Union, that the workman/Casual Labours are not the workman under IDAct
- Ex.W18: Copy of Lr. Dt.9.8.2005 By Respondent to the Special Assistant, RTA Extn., Bellavista to send cash remittance of Rs.50000/- through WW1
- Ex.W19: Copy of application of WW1
- Ex.W20: Copy of application of Sri Srinivas

#### Documents marked for the Respondent

- Ex.M1: Copy of award of CGIT cum Labour Court, Hyderabad dt.24.9.2002
- Ex.M2: Copy of order in WP No.15555/1993 dt.28.3.97
- Ex.M3: Copy of order in WP No.18436/2004 dt.11.10.2004
- Ex.M4: Copy of Lr. Of State Bank of Hyderabad head office to Sri N. Rama Krishna dt.28.3.2005
- Ex.M5: Copy of Lr. Of State Bank of Hyderabad to Sri V. S. Krishnachary dt.28.3.2005
- Ex.M6: Copy of Lr. Of State Bank of Hyderabad to Sri K. Vijay Kumar dt.28.3.2005

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 341.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक इंदौर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 70/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/41/2006-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 341.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 70/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 18/02/2015.

[No. L-12012/41/2006-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/70/06

Shri Sudhir Kumar soni,  
R/o Patel ward, Multai,  
Distt. Betul (MP)

...Workman

#### Versus

General Manager,  
State Bank of Indore, Head office,  
5, Yeshwant Niwas Road,  
Indore

...Management

#### AWARD

Passed on this 12th day of January 2015

1. As per letter dated 27-10-06 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/41/2006-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of General Manager, State Bank of Indore, Indore in terminating the services of Shri Sudhir Kumar Soni w.e.f. 7-5-04 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/1 to 2/5. Case of workman is that he was engaged by IInd party on post of permanent peon from 25-7-01. He was paid wages Rs. 50/- per day. The wages were increased to Rs. 60/- per day. He was paid wages for 6 days in a week excluding Sunday and holidays. He worked under Branch Manager. That he completed 240 days continuous service. He is covered as employee under Section 25 B of IDAct. His services were terminated without notice, no retrenchment compensation was paid to him. His services were terminated in violation of Section 25-F, G,N of I.D.Act. On such ground, workman prays for his reinstatement with back wages.

3. IInd party submitted Written Statement at Page 7/1 to 7/7 denying claim of workman. that State Bank of Indore was established under Act of 1959. The Bank is governed by circulars issued by State Bank of India and Reserve Bank in the matter of recruitment of staff. Name of workman was not sponsored through Employment Exchange. Selection procedure was not followed for appointment of workman. workman is claiming back door entry in the Bank. Workman was engaged for cleaning work one hour before opening of Bank and one hour after closing hours. Workman was working for one or two hours in a day.

Workman was paid daily wages for his working days. He not completed 240 days continuous service. Workman is not eligible for appointment in Bank as peon. IInd party has not violated Section 25-F of ID Act. IInd party has referred to ratio held in various cases by Apex Court and different High Courts contending that workman is not eligible for regular appointment or reinstatement as he was engaged on daily wages. On such contentions, IInd party prays that reference be answered in its favour.

4. Workman submitted rejoinder at Page 8/1 to 8/3 reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |   |  |
|---|--|
| (i) Whether the action of the management of General Manager, State Bank of Indore, Indore in terminating the services of Shri Sudhir Kumar Soni w.e.f. 7-5-04 is justified? | In Affirmative                         |
| (ii) If not, what relief the workman is entitled to?"   | Workman is not entitled to any relief. |

### REASONS

6. Workman is challenging termination of his service for violation of Section 25-F, G, H of I.D.Act. Management has denied material contentions of workman.

7. Workman filed affidavit of his evidence stating that he was working as peon with IInd party. He was paid wages Rs. 50, 60 per day. His services were terminated from 7-5-04. That he completed 240 days continuous service. Workman was paid bonus for the year 2001 to 2004 Rs. 2849/-. His services were terminated in violation of Section 25-F, G, H of ID Act. Workman was not present for his cross-examination. Ist party workman produced documents Exhibit W-1. Letter issued by LEO dated 13-4-06 – said document shows that during conciliation discussion, Branch Manager had admitted that workman was engaged by Bank for casual nature of work and accordingly paid.

8. Management filed affidavit of witness Laxmishankar Tiwari denying the workman was appointed as regular peon. It is denied that workman was continuously working from 25-7-01 to 7-5-04. The witness denied that workman completed 240 days continuous service. The name of workman was not sponsored through Employment Exchange. At the time of engagement, rules about recruitment were not followed. In his cross-examination, management's witness says he was not posted in Mullai Branch during 2001 to 04. He had not discussed with

earlier Branch managers before filing affidavit. His affidavit is filed on basis of record. Name of workman was not sponsored through Employment Exchange. While engaging workman, permission of Controlling Officer was not obtained. The witness explained that workman was not appointed. The letter of appointment was not given to him. Muster roll was not maintained. Workman was paid wages under vouchers Rs. 50-60 per day. Witness of management claimed ignorance about documents referred in his cross-examination.

9. Workman has not appeared for his cross-examination, other witness is not examined in support of his claim. The evidence adduced by Ist party is not sufficient to prove that workman was working more than 240 days before termination of his services. In absence of such evidence, workman cannot be allowed protection of Section 25-F of I.D.Act. the termination of services of workman cannot be said illegal. For above reasons, I record my finding in Point No.1 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management of General Manager, State Bank of Indore, Indore in terminating the services of Shri Sudhir Kumar Soni w.e.f. 7-5-04 is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 342.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 45/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-12011/29/2008-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 342.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 18/02/2015.

[No. L-12011/29/2008-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE****BEFORE SHRI J.P.CHAND, PRESIDING OFFICER,  
CGIT-CUM-LABOUR COURT, NAGPUR****Case No.CGIT/NGP/45/2009**

Date: 12.01.2015

**Party No. 1 :** The Assistant General Manager,  
Region-V, State Bank of India,  
Zonal Office, S.V. Patel Marg,  
Kingsway, Nagpur-1

**Versus**

**Party No. 2 :** The Zonal Secretary,  
State Bank Workers Organization,  
542, Congress, Maharashtra,  
Nagpur.

**AWARD**

(Dated: 12th January, 2015)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Region-V, State Bank of India and their workman, Shri M.N. Pathak, for adjudication, as per letter No.L-12011/29/2008-IR (B-I) dated 07.12.2009, with the following schedule:-

"Whether the action of the management of State Bank of India in imposing punishment of dismissal on Shri M.N. Pathak w.e.f. 12.07.2005 is justified? If not, to what relief he is entitled?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman Shri M.N.Pathak, ("the workman" in short) through his union, State Bank Workers Organization ("the union" in short) filed the statement of claim and the management of State Bank of India ("party no.1" in short) filed the written statement.

The case of the workman as presented by the union in the statement of claim is that the party no.1 is a statutory Bank and provisions of the Act are applicable to it and the service conditions of the employees of party No.1 are governed by the provisions of Sastry Award, Desai Award and the Bi-partite settlements signed by the management with the Unions at national level and it is a registered trade union of the award staff employees of party No.1 and the workman was its member and the workman was appointed as an Assistant (Cash/Accounts) and while he was working as a cashier at Amravati Branch of party No.1, he was suspended from service by party No.1 from 15.06.1998 and there was a dispute regarding payment of one cheque made by the workman and for that reason, the party no.1 lodged a complaint at Amravati Police Station on 12.06.1998 against the workman and criminal case no. 51/1999 was registered against the workman by the police

and the said case was decided by the Chief Judicial Magistrate, Amravati and while the investigation and trial of the criminal case was in progress, party No.1 initiated simultaneously disciplinary action against the workman and accordingly, charge sheet containing 14 charges under the Sastry Award was served on the workman on 13.05.2000 and the said charge sheet was amended by the Disciplinary Authority on 17.10.2000 and departmental inquiry was ordered and the Inquiry Officer made a farce of enquiry and ultimately submitted his findings on 09.01.2002 and based on the findings of the Inquiry Officer, the Disciplinary Authority awarded the punishment of dismissal without notice upon the workman vide order dated 15.09.2005 and the Central Government initially declined to make the reference for adjudication, but as per the direction of the Hon'ble High Court, Mumbai in the writ petition filed by it, the reference was made by the central government.

It is further pleaded by the union on behalf of the workman that the allegations made against the workman were regarding payment of a cheque for rupees three lacks, drawn on the account maintained at Amravati Branch of party No.1 on 08.06.1998 and the workman was duty bound to effect the payment of the said cheque to the customer, when the same had come to his counter for payment and therefore, no misconduct can be construed for performance of such duty and as per the allegations, the said cheque was found to be a fraudulent one and the entire responsibility was unduly fixed on the workman and the workman had followed all the required procedure without any apparent lapse on his part for making payment of the cheque and the payment was made by him as per rules and if the cheque was found to be a fraudulent cheque, then the same was nothing short than an occupational hazard and the workman could not have been held to be responsible for the same and the departmental enquiry conducted by the party No.1 was not fair and therefore the same was invalid, as because, though party No.1 had lodged the F.I.R. against the workman, the party No.1 without waiting for the final result of the criminal case and within a period of one year, started the departmental enquiry in complete violation of the provisions of clause 521 (2) and (3) of the Sastry Award and the workman was acquitted in the criminal case No. 51/1999 by the Chief Judicial Magistrate, Amravati on 02.12.2008 and the departmental enquiry was invalid, as because, amendment to the original charge sheet was unduly made during the process of the departmental enquiry and on 26.12.2001, the Enquiry Officer allowed the management to examine the witnesses, in absence of the workman, even though, protest was made in that regard and the Enquiry Officer instead of recording the statement of the witnesses, accepted the previously written note and the evidence was therefore, a tutored one and not natural and affidavit without oath of the witnesses was taken on record, leading questions were allowed to be asked to the witnesses against the principles of natural justice, unauthenticated

document was allowed to be placed on record and without allowing the cross-examination of the first witness for the management by the defence representative, the second witness was allowed to enter into the witness box, to suit the management and after completion of evidence from the side of the management, no opportunity or time was given to the workman to produce witnesses in his defence and the findings of the Enquiry Officer are perverse and non application of mind is writ large on the face of the findings of the Enquiry Officer and the reasoning given by the Enquiry Officer are casual and mechanical and not based on evidence on record and principles of probability were not considered in favour of the workman and the enquiry was against the principles of natural justice.

Prayer has been made for the reinstatement of the workman in service with continuity and full back wages.

3. Party No.1 in the written statement has pleaded inter alia that the workman was working at Amravati Branch as an Assistant(cash), when the charge sheet came to be issued against him and on 08.06.1998, the workman made payment of Rs.3,000,00/- (Three lacks) for encashment of the cheque of one Mr. H.P. Das, whose account did not exist at the said branch and the workman committed various acts of misconduct as mentioned in the charge sheet, while making such payment and the workman was issued with a charge sheet dated 13.05.2000, informing him of his committing various misconducts and in all, 14 charges were levelled against him and the workman received the charge sheet and the departmental enquiry was conducted on various dates and the workman was duly represented by his defence representative in the enquiry and the workman attended the enquiry personally in all the sittings of the enquiry except one sitting and fully participated in the enquiry, but he refused to cross-examine the witnesses examined by the management in the enquiry and the workman approached the Assistant Labour Commissioner (Central) on 20.07.2001, for keeping the disciplinary proceedings in abeyance till the outcome of the criminal case and the A.L.C. recorded the failure of conciliation on 09.10.2001 and sent the failure report to the Central Government and the workman also filed Writ Petition No.41/2002, before the Hon'ble High Court, challenging its action of continuing the departmental enquiry against him and the said writ petition was dismissed as withdrawn on 19.03.2002 and Government of India vide letter dated 11.03.2002 refused to make a reference stating that there is no legal bar for both proceedings, disciplinary and criminal to go on simultaneously and the workman challenged the said order by filing writ petition no. 1404/2002, before the Hon'ble high Court on 09.04.2002 and the said writ petition was allowed on 22.08.2002 by the Hon'ble high Court, directing the Central Government to make the reference and accordingly, the reference was made by the union of India to this tribunal and the same was registered as reference case No. CGIT/NGP/180/2002 and the schedule of the said reference was "Whether the action of the

management of the State Bank of India in issuing charge sheet and going ahead with the departmental enquiry simultaneously with trial case for the same reason in respect of Shri M.N. Pathak is justified or not? If not, what relief the disputant concerned is entitled to?" and in the said reference, award was passed by this Tribunal on 11.05.2005, holding that the action of the bank was justified and did not violate Section 521(3) of Sastry Award and the Hon'ble High Court did not grant stay to the departmental enquiry initiated against the workman by it and the Presenting Officer presented his brief on 29.12.2001 and though the defence representative was advised to submit his written brief by 04.01.2001, he did not submit his brief and the Enquiry Officer submitted his report dated 09.01.2002 to the Disciplinary Authority and as no stay was granted against the Bank to proceed with the departmental enquiry against the workman, the Disciplinary Authority issued the show cause notice dated 15.01.2003 to the workman along with the copy of the report of the Enquiry Officer, proposing the punishment of "dismissal without notice" through its Amravati Branch, but surprisingly, after going through the show cause notice, the workman refused to accept the same on 17.01.2003 and therefore, it sent two of its employees, Shri Madhav Bhagwat and Shri Ramesh Khandpasole on 20.01.2003 to the house of the workman to serve the notice, but the family members of the workman informed them about the absence of the workman from the house and they also refused to receive the notice and as the workman avoided to receive the show cause notice, the notice was pasted on the front door of his house on 21.01.2003 in presence of the official of the bank and the show cause notice along with the enquiry report was sent to the workman by speed post with AD on 20.01.2003, but the workman avoided to receive the same and for that, it (Bank) published a notice in the daily news paper published from Amravati, namely "Hinusthan" dated 22.01.2003 and by the said notice, the workman was directed to collect the show cause notice either from the Disciplinary Authority or from Amravati Branch and finally, the workman received the show cause notice on 24.01.2003, but he did not give any reply to the same and as such, final order was passed by the Disciplinary Authority on 12.07.2005 and the workman filed an appeal against the order of punishment before the Appellate Authority and the Appellate Authority, after giving personal hearing to the workman along with his defence representative, passed the final order dated 15.09.2005, dismissing the appeal.

It is further pleaded by the party No.1 that five witnesses were examined by the Bank in the departmental enquiry and though sufficient opportunities were given to the workman for their cross-examination, the workman refused to cross-examine them and he also failed to adduce any evidence in his defence and the workman was given every opportunity to defend himself in the enquiry and copy of the enquiry proceedings on each and every date of the enquiry was given to the workman and after closure of the evidence, the copy of the prosecution brief was



given to the workman and he was given time to submit his defence brief, but he did not file the same and though the workman received the second show-cause notice and the copy of the enquiry report, he did not file any reply to the same and the Disciplinary Authority after considering the materials on record of the enquiry, passed the final order and it had complied with all the principles of natural justice, while conducting the departmental enquiry against the workman and the Enquiry Officer has given justifiable reasons for holding all the charges except one to have been proved against the workman and having regard to the gross misconduct committed by the workman, the Disciplinary Authority has rightly passed the final order of dismissal of the workman from services without notice and the punishment commensurate with the gross misconduct committed by the workman and the same is not shockingly disproportionate.

It is also pleaded by the party No.1 that as the issue of continuance of the departmental enquiry and criminal prosecution simultaneously has already been decided in favour of the Bank, the contention raised by the union in that regard is liable to be rejected and the charges in the disciplinary proceedings and in the criminal case against the workman were not the same and similar and the departmental enquiry commenced on 07.09.2000 and the enquiry officer submitted his report on 09.01.2002 and order of punishment was passed on 12.07.2005 and the trial of the criminal case began on 05.08.2002 and judgment was passed on 02.12.2008 and much before the trial of the criminal case began, the evidence in the disciplinary enquiry was already completed and the workman is not entitled to an relief.

4. No rejoinder has been filed by the union on behalf of the workman.

5. As this is a case of dismissal of the workman from service as a punishment in the departmental enquiry held against him, the validity or otherwise of the departmental enquiry was taken up for consideration as a preliminary issue and by order dated 23.09.2014, the departmental enquiry conducted against the workman was held to be legal, proper and in accordance with the principles of natural justice.

6. At the time of argument, it was submitted by the learned advocate for the workman that the charge sheet was submitted against the workman for making payment of one cheque by him as the cashier, while working at Amravati branch and for the same reason, party No.1 also lodged a police complaint at Amravati police station on 12.06.1998 against the workman and police registered Criminal case no. 51/1999 and the workman was tried in the said criminal case and was acquitted by the chief Judicial Magistrate, Amravati and while the investigation and trial of the said criminal case was in progress, the party No.1 initiated the departmental enquiry for commission of the alleged misconduct under the Sastry

Award, without waiting for the result of the criminal case, in contravention of clause 521 of the Sastry Award and as such, the entire action taken in the departmental enquiry including the imposition of the punishment on the workman is illegal.

It was further submitted by the learned advocate for the workman that the findings of the Enquiry Officer are perverse and non-application of mind is writ large on the face of the said findings and the reasons given by the Enquiry Officer in support of his findings are casual and mechanical and the findings are not based on the evidence on record and the principles of probability have not been considered in favour of the workman and the charges have not been proved beyond the shadow of doubt and as the punishment imposed against the workman is based on such perverse findings, the same is not sustainable.

It was also submitted by the learned advocate for the workman that the workman was working as a cashier and he was duty bound to make the payment of the cheque in question to the customer, when the same had come to his counter for payment and making payment of the cheque cannot be construed as commission of any misconduct and as per the allegation in the charge sheet, the cheque of Rs.3,000,00/- was found to be a fraudulent cheque and the entire responsibility was unduly fixed upon the workman, even though, it was not the duty of the workman to verify the genuineness of the cheque or passing of the same for payment and the payment of the cheque was made by the workman by following all due procedure and as per rules and the workman did not commit any misconduct and the workman has only been awarded the punishment of dismissal from service, which is illegal and unjustified and the punishment imposed against the workman is shockingly disproportionate and require interference by the Tribunal under section 11-A of the Act and the workman is entitled for reinstatement in service with continuity and full back wages.

7. In reply, the learned advocate for the party No.1 in the written notes of argument has submitted that by order dated 23.09.2014, the Tribunal has already held that the departmental enquiry conducted against the workman to be legal, proper and in accordance of the principles of natural justice and the workman was acquitted by the criminal Court by giving him the benefit of doubts and the charges in the criminal case and in the departmental enquiry initiated against the workman were not similar and the same, but totally different from each other and therefore. The acquittal of the workman in the criminal case cannot affect the already concluded disciplinary enquiry and no benefit can be granted to the workman in this reference, basing on such acquittal.

In support of the submissions, reliance was placed by the learned advocate for the party no.1 on the decision of the Hon'ble Apex Court in Civil Appeal No. 8513/2012(The Deputy Inspector General of Police vs. S.Samuthiram.)

It will not be out of place to mention here that at the time of deciding the preliminary issue of the fairness of the departmental enquiry, the question of the acquittal of the workman in the criminal case was already considered and answered against the workman. So, there is no need to reiterate the said question by the party No.1.

8. It was further submitted by the learned advocate for the party No.1 that in the departmental enquiry held against the workman, both oral and documentary evidence were adduced by the Bank and such evidence went unchallenged and the Enquiry Officer has given cogent and justifiable reasons in support of his findings, basing on the evidence on record of the enquiry and the Enquiry Officer has held the charge no.13 not to have been proved against the workman and this shows that the Enquiry Officer was unbiased and the workman in his evidence has admitted that he had no enmity with the Enquiry Officer did not have any personal bias against him and there was enough material on the record of the enquiry to hold the charges to have been proved against the workman and therefore, the findings of the Enquiry Officer cannot be said to be perverse and the Bank has lost confidence in the workman and the punishment awarded to the workman is proportionate to the gross misconduct committed by him and the workman is not entitled to any relief.

In support of the submissions, the learned advocate relied on the decisions reported in (2011) 4 SCC-585 (State Bank of Bikaner and Jaipur Vs Nemichand), (2006) 2 SCC-263 (T.N.C.S Corporation Vs K. Meerabai), 2003 LAB IC 281 (AP) (The Commissioner of Police, Hyderabad Vs Rachonanda), AIR 2003 SC-1571 (Chairman and Managing Director, United Commercial Bank Vs P.C. Kakkar), AIR 2003 SC 1463 (Regional Manager, UPSRTC Vs Hotilal), (2006) 7 SCC 218 (State Bank of India Vs Ramesh Dinkar Pende), 2012 AIR SCW-5835 (Avinash Sadashiv Vs Union of India) and (2013) 2 SCC-740 (State Bank of India Vs Narendra Kumar Pandey).

9. At the outset, it is necessary to mention that the issue regarding initiation of the departmental enquiry during the pendency of the criminal case against the workman had been raised by the learned advocate for the workman at the time of consideration of the preliminary issue of fairness of the departmental enquiry and as per order dated 23.09.2014, it was held that as in reference case No. CGIT/NGP/180/2002, the issue of simultaneous initiation of the departmental enquiry and criminal case against the workman had been considered by the Tribunal and answered in the Party No. 1, by order dated 11.05.2005, holding that due to simultaneous initiation of the departmental enquiry and criminal case, there was no violation of clause 521(3) of Sastry Award, there was no scope for reconsideration of the same. Hence, the submissions made by the learned advocate for the workman in that regard in fairness of thing is to be mentioned and rejected.

10. Before delving into the merit of the matter, I think it proper to mention the principles enunciated by the Hon'ble Courts, in some of the decisions cited by the learned advocate for the Party No. 1, in regard to the power and jurisdiction of the Tribunal to interfere in the matter of the findings and punishment imposed in the departmental proceedings.

In the decision reported in (2011) 4 SCC-584 (supra), the Hon'ble Apex Court have held that:

Domestic/Departmental enquiry-Judicial review of findings of disciplinary authority-Scope-Restated-Held, courts will not interfere except where findings are based on no evidence or where they are clearly perverse-Test of perversity i.e. whether authority concerned could have reasonable arrived at such conclusion or finding based on material on record is to be applied-Court will interfere if principles of natural justice or statutory regulations have been violated or if order is arbitrary, capricious, malafide or based on extraneous considerations.

XXXXX XXXXX XXXXX XXXXX

When considering whether punishment of termination from service imposed upon a bank employee is shockingly excessive or disproportionate to gravity of proved misconduct, loss of confidence in employee is an important and relevant factor. Bank is justified in contending that not only employees who are dishonest, but those who are guilty of gross negligence, are not fit to continue in its service.

XXXX XXXX XXXX XXXX

Labour Law-Domestic/Departmental inquiry-Criminal Proceedings-Acquittal in criminal trial-Effect of, on previously concluded departmental proceedings-Different standard of proof in-Held, subsequent acquittal by Criminal court will not in any way render completed disciplinary proceedings invalid nor affect validity of finding of guilt or consequential punishment."

In (2006)2 SCC-255(supra), the Hon'ble Apex court has held that:

"Labour Law-Departmental/Domestic enquiry-Penalty/Punishment-Scope of judicial review of – Sympathy or generosity, if a ground-Where the employee was found guilty of misappropriating the employer corporation's fund, the primary factor to be taken into consideration was the loss of confidence and not the amount of money misappropriated-hence not withstanding that there was no such allegation against that employee in the past, held, the punishment of dismissal from service imposed by the employer could not be interfered with by the court on ground of sympathy or generosity. In view of the position of trust occupied by the delinquent, further held, the matter required to be dealt with rather firmly and not leniently."

The Hon'ble Apex Court in the decisions reported in Air 2003 SC 1571(supra) have held that:

“The court should not interfere with the administrator’s decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. The court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not in the decision.”

11. Now, the present case in hand is to be considered with the touchstone of the principles enunciated by the Hon’ble Apex Court in the decisions cited by the learned advocate for the Party No.1.

On perusal of the materials on record, it is found that the evidence adduced by the management in the departmental enquiry remained unchallenged, as the workman did not challenge the same by making cross-examination of the witnesses examined by the party No.1, even though, he attended the enquiry and was given the chance of cross-examination. The workman also did not adduce any evidence in his defence. It is found from the record that this is not a case of no evidence or that the findings of the Enquiry Officer are totally against the whole body of evidence on record of the departmental enquiry. The findings of the Enquiry Officer are very detailed, well considered and well reasoned. The findings of the Enquiry Officer are based on the evidence on record of the enquiry. The findings of the Enquiry Officer are also not as such, which cannot be arrived at by a prudent man on the basis of the evidence on record of the enquiry. Hence, the findings of the Enquiry Officer cannot be said to be perverse.

12. So far the proportionality of the punishment is concerned, it is to be mentioned that the workman has been found guilty of committing grave misconduct of forgery, fraud and other misconducts in a properly conducted departmental enquiry. So, the punishment of dismissal from service passed against the workman cannot be said to be shockingly disproportionate. In view of the position of trust occupied by the workman, there is no question of dealing with his case leniently and to interfere with the punishment. Hence it is ordered:

### ORDER

The action of the management of State Bank of India in imposing punishment of dismissal on Shri M.N. Pathak w.e.f. 12.07.2005 is justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 343.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचात (संदर्भ संख्या 971/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-23012/55/1998-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 343.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 971/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Bhakra Dam Nangal Township, Ropar and their workmen, received by the Central Government on 18/02/2015.

[No. L-23012/55/1998-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

### ANNEXURE

### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 971/2005**

Registered on 15.9.2005

The Secretary Legal,  
Nangal Bhakra Mazdoor  
Sangh (INTUC), Nangal Township,  
District Ropar

...Petitioner

### Versus

The Chief Engineer,  
Bhakra Dam, Nangal Township,  
Distt. Ropar

...Respondents

### APPEARANCES :

For the workman : Sh. R.K. Singh Parmar AR.

For the Management : Sh. S.K. Goyal, Law Officer.

### AWARD

Passed on-26.9.2014

Central Government vide Notification No. L-23012/55/98-IR(CM-II) Dated 17.2.1999, by exercising its powers under Section 10 Sub-Section (1) Clause (d) and Sub-Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘Act’) has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the Bhakra Beas Management Board Chandigarh in denying the demand of Nangal Bhakra Mazdoor Sangh for opportunity of re-employment to the Rainy Seasonal Staff of previous Rainy Seasons and making fresh

recruitment of Rainy Seasonal Staff every year is just and legal? If not, what relief the concerned workmen and union are entitled to?”

In response to the notice, the Union submitted statement of claim pleading that the management selected workman for short period i.e. for a rainy season through the Employment Exchange by conducting an interview and Trade Test and did not employ the workman who already worked in the previous year. That this practice of the management is illegal. This practice is being carried out just to accommodate the near and dear ones. That the management has not re-employed the persons who served for long years. That the persons who already worked during the rainy season are entitled to be employed in the next rainy season.

Management filed written reply pleading that the management operate discharge sites and wireless stations to have a water control data and during the lean period the same is managed by the regular staff. But during rainy season, additional staff is engaged for a period of 89 days from July to September by holding fresh interview by the selection committee from the candidates sponsored by the employment exchange. In view of this procedure, the workman are selected. That there is no dispute between the parties and the reference has been wrongly made.

Parties were given opportunities to lead their evidence.

Sh. R.K. Singh Parmar, AR of the workman appeared in the witness box and filed his affidavit reiterating the stand taken by the Union.

On the other hand, management examined Malkiat Singh who filed his affidavit supporting the case of the management.

It was contended by Sh. R.K. Singh Parmar, AR of the workmen-Union that during rainy season the workmen are employed whose names are sponsored by the employment exchange and that too after conducting an interview; and the persons who worked during the previous rainy season are not employed and this practice is illegal.

It was stated that a seniority list has already been prepared of the persons who are engaged during the rainy season and they are called for interview and as such there is no dispute between the parties for not engaging the persons who had worked during the previous rainy season. A letter dated 20.9.2004 passed by the Special Secretary, Bhakra-Beas Management Board has been placed on file. This is reproduced as follow:-

“Some of the persons employed on daily basis for seasonal works under the administration of Chief Engineer/Bhakra Dam had filed a writ petition for regularization of their services. The Hon’ble Punjab and Haryana High Court Chandigarh vide order dated 20.1.2004 has directed the respondent

management i.e. BBMB to frame a seniority list of seasonal workers and engage them on seasonal works as per seniority without calling upon them to apply afresh every year. The Court has further directed that the employees who have been working for long periods, some arrangements should be made to give them some security of tenure or other service benefits as per the decision to be taken by the respondents within a reasonable time.

In view of above you are requested to maintain the seniority of the daily workers engaged seasonally and to call the candidates as per seniority list for interview/trade test for their engagement in each season by sending call letters to the individuals and pasting the notice at discharge site offices so as to give an extensive publicity. Further at the time of filling up of posts of different categories through Centralized Staff Selection Committee the candidates as per seniority list may be called for interview/trade test and due weightage of past experience be given to these persons engaged seasonally by giving relaxation in age of one year for the services rendered for minimum 89 days in each calendar year subject to maximum relaxation of five years.”

Thus the dispute regarding engaging of seasonal workers in the subsequent rainy season was already raised and the competent authorities have already ordered to maintain a seniority list and to call the candidates for interview and test as per the seniority for engaging them in the rainy season by sending them call letters and also pasting a notice in the area. In view of the letter passed in pursuance of the order of the Hon’ble High Court, no fresh direction can be given to the respondent management to give opportunity of re-employment to rainy season staff of the previous rainy season.

It is also clear from the order dated 20.9.2004 that the names of the workmen are not required to be sponsored by the employment exchange and they were to be called directly by the management for engagement.

It is contended by the Authorized Representative that this reference was made in the year 1999 and since the workmen were not re-employed during the subsequent rainy seasons, they are entitled to the arrears of pay. Simply on the basis of this argument no order can be passed regarding payment of back wages as there is nothing on the file that which of the competent employees who were engaged during one rainy season were not engaged in the subsequent rainy season and as such the contention raised is of no force.

In result, the reference is answered in view of the said letter dated 20.9.2004 as reproduced above. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer



नई दिल्ली, 18 फरवरी, 2015

**का.आ. 344.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 509/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-23012/49/1998-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 344.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 509/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of BBMB and their workmen, received by the Central Government on 18/02/2015.

[No. L-23012/49/1998-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 509/2005**

Registered on 22.8.2005

Sh. Roshan Lal, S/o Sh. Kahnu Ram,  
C/o Sh. R.K. Singh Parmar,  
Vice President, Pb, INTUC, 211-L,  
Brari, PO Partap Nagar,  
Tehsil Anandpur Sahib  
Distt-Ropar

...Petitioner

#### Versus

Chief Engineer System Operation,  
BBMB, Sector 19B,  
Madhya Marg,  
Chandigarh

...Respondents

#### APPEARANCES

For the workman : Sh. R.K. Singh, A.R

For the Management : Sh. Ravinder Sharma, Adv.

#### AWARD

Passed on 13.10.2014

Central Government vide Notification No. L-23012/49/98/IR(CM-II) Dated 17.2.1999, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-

section (2A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the Chief Engineer, System Operation Bhakra Beas Management Board, Chandigarh and Resident Engineer, Dehar Power House Division, Bhakra Beas Management Board (Power Wing) salappur Township in terminating the services of Sh. Roshan Lal S/o Sh. Khanu Ram w.e.f. 31.3.93 and 31.5.95 and not re-engaging him while retrenchees of Beas Construction Board were given employment is just and legal? If not, to what relief is the workman concerned entitled?”

In response to the notice, the workman appeared and submitted of claim pleading that he was employed 10/1986 to 5/1995 with notional breaks in service. That he has completed more than 240 days of service in a calendar year. That the management absorbed some retrenched employees in the year 1993 and on that account his services were terminated which is illegal and he is deemed to be in regular service.

Respondent management filed written reply pleading that workman worked as a daily labourer and he did not complete 240 days in any calendar year. That he was disengaged on completion of the seasonal work and he is not entitled to any relief.

Parties were given opportunity to lead its evidence.

Today the case was fixed for arguments. The A.R. of the workman made a statement not pressing the reference at this stage. His separate statement has been recorded.

In view of his statement, the reference is answered being not pressed by the workman and hence, he is not entitled to any relief. The reference is answered accordingly.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 345.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1335/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-23012/1/2006-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 345.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1335/

2007) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of BBMB and their workmen, received by the Central Government on 18/02/2015.

[No. L-23012/1/2006-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 1335/2007**

Registered on 14.9.2007

Sh. Shiv Kumar, S/o Sh. Rakha Ram,  
R/o Qr. No. P-2/364, Jari Colony,  
Pandoh, Tehsil Sadar,  
Mandi (HP)

...Petitioner

#### Versus

The Chief Engineer, BBMB,  
Sundernagar, District Mandi (HP)  
Mandi

...Respondent

#### APPEARANCES

For the Workman : Ex parte

For the Management : Sh. Ravinder Rana, Law Officer

#### AWARD

Passed on 28.10.2014

Central Government vide Notification No. L-23012/1/2006 (IR(CM-II)) Dated 7.9.2007, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of BBMB, Chandigarh in terminating the services of Sh. Shiv Kumar w.e.f. 18.10.1996 without any notice and payment of retrenchment compensation is legal and justified? If so, to what relief is the workman entitled and from which date?

Notice was given to the workman who appeared through counsel but none appeared on his behalf on 23.7.2014 and the workman was proceeded against ex parte. He did not file statement of claim despite availing several opportunities.

Since the workman has not filed any statement of claim, this reference is answered as a 'no claim' reference and the workman is not entitled to any relief.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 346.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1564, 1571/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-23012/3/2008-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 346.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1564, 1571/2008) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Bhakra Beas Management Board, BBMB and their workmen, received by the Central Government on 18/02/2015.

[No. L-23012/3/2008-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 1564/1571 of 2008**

Registered on 3.11.2008

Sh. R.K. Singh Parmar,  
Legal Secretary, BBMB Regular  
Technical Employees Union #211-L,  
Brari, PO Partapnagar,  
Nangal Dam, Ropar

...Petitioner

#### Versus

The Chairman,  
Bhakra Beas Management Board,  
System Operation, Sector 19-B,  
Madhya Marg, Chandigarh.

The Chief Engineer, BBMB,  
Bhakra Dam, Nangal Township,  
Nangal, Ropar

...Respondents

#### APPEARANCES :

For the Workman : Sh. R.K. Parmar AR

For the Management : Sh. S.K. Goyal, Law Officer

**AWARD**

Passed on 25.9.2014

This Award will dispose of ID No.1564 of 2008 and 1571 of 2008 in which the same references are made.

Central Government vide Notification No. L-23012/3/2008-IR(CM-II) Dated 23.10.2008, read with Corrigendum No.L-23012/3/2008-IR(CM-II) dated 24.11.2008 by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of BBMB by granting Sh. Sulekh Chander from Carpenter Grade II to Carpenter Grade I by order dated 27.12.2006 w.e.f. 12.7.1995 without grant of financial benefits from retrospective effect is legal and justified? To what relief is the workman concerned entitled?”

The appropriate Government again made similar reference vide Notification No. 23012/3/2008-IR(CM-II) dated 24.11.2008

In response to the notice, the workman appeared and submitted statement of claim pleading that he was appointed as Carpenter Grade II on 2.5.1985 with the respondent management. The management promoted Sh. Keshav Nanga and Gurdev Singh as Carpenter Grade I vide order dated 7.2.2000 and they were junior to him. On his representations, he was promoted vide order dated 27.12.2006 with deemed date of promotion as 12.7.1995, but without consequential benefits of pay, arrears etc. That he is entitled to get the pay scale and the arrears thereof w.e.f. 12.7.1985 when he was deemed to be promoted as Carpenter Grade I.

The management filed written reply pleading that the seniority of industrial workers was being maintained in two different groups i.e. Group No.1 and Group No.2. That the seniority of the workman was maintained in Group I; whereas of Keshav Nanga and Gurdev Singh was maintained in Group II. In view of the BBMB Class III and Class IV Employees (Recruitment and Conditions of Services) Regulations, 1994 an integrated cadre was created and since the workman was senior, he was placed above Keshav Nanga and Gurdev Singh and he was promoted as Carpenter Grade I on ad hoc basis vide order dated 27.12.2006 with deemed date of promotion as 12.7.1995 i.e. from the date of promotion when the persons junior to him were promoted. That the workman was granted pay scale on completion of 9/16 years of services and he was already drawing pay in the pay scale of Rs.5125-8275 when he was promoted whereas the pay scale of Carpenter Grade I is Rs. 3870-7250. That he was not entitled to any step-up in the pay scale of Carpenter Grade I and accordingly, the same was not given to him.

The management has examined Sh. R.K. Singla who filed his affidavit reiterating the case of the management.

I have heard Sh. R.K. Singh Parmar AR of the workman and Sh. S.K.Goyal, Law Officer for the management.

The admitted facts are that the workman was appointed as Carpenter Grade II on 2.5.1985 and he was promoted as Carpenter Grade I on 27.12.2006 w.e.f. 12.7.1995. The only dispute is whether he is entitled to the arrears of pay etc. from the deemed day of promotion. It was argued by the AR of the workman that since the workman was promoted as Carpenter Grade I from 12.7.1995, he is entitled to get the pay and allowances accordingly. The Hon'ble Apex Court while dealing with a similar case where retrospective promotion was granted, observed in para 5 of the judgment titled Union of India Vs. B.M. Jha reported in (2008) 2 Supreme Court Cases (L&S) 399 as follow:-

“We have heard Learned Counsel for the parties. It was argued by learned counsel for the respondent that when a retrospective promotion is given to an incumbent, normally he is entitled to all benefits flowing therefrom. However, this Court in State of Haryana Vs. OP Gupta and followed in AK Soumini Vs. State Bank of Travancore has been the view that even in case of a notional promotion from retrospective date, it cannot entitle the employee to arrears of salary as the incumbent has not worked in the promotional post. These decisions relied on the principle of “no work no pay”. The learned Division Bench in the impugned judgment has placed reliance on State of AP Vs. KVL Narasimha Rao. In our view the High court did not examine that case in detail. In fact in the said judgment the view taken by the High Court of grant of salary was set aside by this Court. Therefore we are of the view that in the light of the consistent view taken by this Court in the abovementioned cases, arrears of salary cannot be granted to the respondent in view of the principle of “no work no pay” in case of retrospective promotion.

In view of the authoritative pronouncement of the Hon'ble Apex Court, it cannot be said that the workman is entitled to the financial benefits with retrospective effect i.e. from 12.7.1995 and as such the action of the management in not granting the benefit is legal and valid and the workman is not entitled to any relief. The reference is accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

का.आ. 347.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.पी.डब्ल्यू.डी.

के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1272/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-42012/125/2005-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 347.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1272/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of CPWD and their workmen, received by the Central Government on 18/02/2015.

[No. L-42012/125/2005-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 1272/2006**

Registered on 9.8.2006

1. All India CPWD (MRM)  
Karamchari Sangathan (Regd)  
through Zonal Secretary CPWD  
Store Building Sector 7B,  
Chandigarh.
2. Sh. Gopal Jha, Chowkidar  
C/O All India CPWD (MRM)  
Karamchari Sangathan (Regd)  
through Zonal Secretary, CPWD  
Store Building, Sector 7B,  
Chandigarh

...Petitioner

#### Versus

1. The Union of India  
Through the Secretary  
to Government of India,  
Ministry of Personnel,  
Public Grievance and Pensions,  
Department of Personnel & Training,  
North Block, New Delhi.
2. Director General of Works, CPWD,  
Nirman Bhawan, New Delhi.

3. The Executive Engineer,  
Chandigarh Central Division II CPWD,  
Kendriya Sadan, Sector 9A  
Chandigarh

...Respondents

#### APPEARANCES:

For the Workman : Sh. S.D. Sharma, Adv.

For the Management : Sh. Anish Babbar, Adv.

#### AWARD

Passed on 22.9.2014

Central Government vide Notification No. L-42012/125/2005-IR(CM-II) Dated 31.7.2006, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of CPWD, Chandigarh in not regularizing the services of Sh. Gopal Jha, w.e.f. 14.4.1981 and action of not extending consequential benefits is legal and justified? If not, to what relief he is entitled to?”

In response to the notice, the workman (claimant No.2) appeared and submitted statement of claim pleading that he joined the management as Baildar on Muster Roll on 14.4.1981. His services were regularized w.e.f. 12.10.1990. That he is entitled to regularization of services with effect from the day he joined as Baildar on muster roll i.e. 14.4.1981 in view of the judgment of Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme Court 584 and he is also entitled to all the consequential benefits like increment, uniform allowance, medical facilities etc. and counting of service for the grant of promotion and service benefit of 12 years/24 years w.e.f. 14.4.1981. That the action of the management in not regularizing the services w.e.f. 14.4.1981 is illegal.

Respondent filed written reply pleading that the Hon'ble Apex Court passed the order for payment of equal pay for equal work and the same has been given to the workman from the date of his appointment. That the Hon'ble Apex Court only advised the Government to take appropriate action to regularize the service of daily-rated workers who were working continuously for more than six months. In pursuance of the said order, the Government of India framed policy and when the post was created the services of the workman were regularized w.e.f. 12.10.1990. That he is not entitled to claim allowance etc. prior thereto. That he is not entitled to regularization of service w.e.f. 14.4.1981.

In the rejoinder, the workman reiterated his case as set out in the claim petition and further pleaded that the Directorate of Horticulture regularized the services of workers immediately and even the service of Sob Nath and Krishan Pal were regularized w.e.f. 18.2.1986 and



5.12.1988. That he is also entitled to for regularization of services from the date he joined the service i.e. 14.4.1981.

Parties were given opportunity to lead evidence.

In support of its case, Sh. Gopal Jha (claimant No.2) appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition.

On the other hand the management has examined Sh. Jaswant Singh, Executive Engineer who filed his affidavit reiterating the stand as taken in the written statement.

I have heard Sh. S.D. Sharma, counsel for the workman and Sh. Anish Babbar, counsel for the management.

Learned counsel for the workman carried me through the judgment of Surinder Singh's case (supra) and submitted that the Hon'ble Apex Court asked the Government to regularize the services of temporary daily wagers from the date of their appointment, and as such, the workman is entitled for regularization of services w.e.f. 14.4.1981, when he joined the management as Baildar. He has further carried me through the copy of the judgment passed in LPA No.622 of 2001 decided on 10.4.2013 titled The Director General of Works Vs. Regional Labour Commissioner and Others and submitted that the judgment of Surinder Singh's case (supra) has been implemented and the workers have been paid the arrears of pay etc., and as such, the present workman is also entitled to the regularization of the services from the date of his initial appointment.

Opposing this contention it was argued by the learned counsel for the management that the Hon'ble Supreme Court issued directions to pay the same salary and allowances to all the daily-rated employees as are paid to regular and permanent employees and that direction have been complied with. He has further submitted that the Hon'ble Apex Court only asked the government to initiate action to regularize the services of those employees who have been in continuous employment for more than six months on the date of the judgment. In pursuance of this order of the Apex Court, the Government initiated action and when the post was created, the service of the workman was regularized w.e.f. 12.10.1990 and workman cannot claim regularization of his services w.e.f. 14.4.1981 as no such direction was issued by the Hon'ble Apex Court for the regularization of the services of the daily-rated workers from the date of their initial appointment.

I have considered the respective contentions.

The Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme court 584 observed as follow:-

"We allow both the writ petitions and direct the respondents, as in the Nehru Yuvak Kendras case

(supra) to pay to the petitioners and all other daily rated employees, to pay the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were respectively employed. The respondents will pay to each of the petitioners a sum of Rs.1000/- towards their costs. We also record our regret that many employees are kept in service on a temporary daily wage basis without their services being regularized. We hope that the government will take appropriate action to regularize the services of all those who have been in continuous employment for more than six months.

A perusal of the order shows that the Hon'ble Apex Court directed the Government to pay the same salary and allowances to daily-rated employees as are paid to regular and permanent employees w.e.f. the date when they were employed. It further observed that the Government would initiate action to regularize the services of the workmen who have been in continuous employment for more than six months. The Hon'ble Apex Court did not direct the Government to regularize the services of the daily-rated employees from the date of joining the service and the Government was only directed to pay them the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were employed.

The Government issued Office Order dated 7.6.1988 Annexure-2 giving the guidelines in view of the observations of the Hon'ble Apex Court for absorbing the casual workers against regular post and again the department issued directions for the regularization of the services of eligible muster roll workers vide letter dated 25.8.1988 Annexure-A3. It is the definite case of the respondent management that after following the guidelines and instructions, the posts were created and on receipt of the post; the service of the workman was regularized w.e.f. 12.10.1990. Thus, the department regularized the service of the workman when the post was created and it is nowhere the case of the workman that the post was existing on the day he was initially appointed as Baildar i.e. 14.4.1981. The workman has relied on a list of the employees prepared by Horticulture Department as well as Annexure A11 and A12 vide which Sob Nath and Krishan Pal was granted appointment to contend that other employees were regularized immediately after the pronouncement of the judgment of Hon'ble Supreme Court but he was denied the benefits for regularization of services w.e.f. 14.4.1981. Suffice it to say that nothing has come on the file that present workman is similarly placed as the employees find mentioned in Annexure A10 or in Annexure A11 and A12 and therefore he cannot claim parity with them, as much as there is nothing on the file that any post was existing

on the day i.e. 14.4.1981 when the workman is claiming regularization of services. The case of Director General of Works (supra) is not applicable as in that case the only question involved was regarding the calculation of arrears of pay etc. in pursuance of the judgment of Surinder Singh's case (supra).

Thus, services were rightly regularized when the post was sanctioned and the action of the management in not regularizing services of workman w.e.f. 14.4.1981 is legal and justified and he is not entitled to any relief. The reference is accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 348.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.पी.डब्ल्यू.डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1274/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-42012/128/2005-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 348.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1274/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of CPWD and their workmen, received by the Central Government on 18/02/2015.

[No. L-42012/128/2005-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 1274/2006**

Registered on 9.8.2006

1. All India CPWD (MRM)  
Karamchari Sangathan (Regd)  
through Zonal Secretary CPWD  
Store Building Sector 7B,  
Chandigarh.

2. Sh. Naval Kishore, Chowkidar  
C/O All India CPWD (MRM)  
Karamchari Sangathan (Regd)  
through Zonal Secretary, CPWD  
Store Building, Sector 7B,  
Chandigarh  
...Petitioner

#### Versus

1. The Union of India  
Through the Secretary  
to Government of India,  
Ministry of Personnel,  
Public Grievance and Pensions,  
Department of Personnel & Training,  
North Block, New Delhi.
2. Director General of Works, CPWD,  
Nirman Bhawan, New Delhi.
3. The Executive Engineer,  
Chandigarh Central Division II CPWD,  
Kendriya Sadan, Sector 9A,  
Chandigarh  
...Respondents

#### APPEARANCES :

For the workman : Sh. S.D. Sharma, Adv.

For the Management : Sh. Anish Babbar, Adv.

#### AWARD

Passed on 23.9.2014

Central Government vide Notification No. L-42012/128/2005 IR(CM-II)) Dated 31.7.2006, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of CPWD, Chandigarh in not regularizing the services of Sh. Naval Kishore Singh, w.e.f. 12.6.1984 to 23.3.1993 and action of not extending consequential benefits is legal and justified? If not, to what relief he is entitled to?”

In response to the notice, the workman (claimant No.2) appeared and submitted statement of claim pleading that he joined the management as Baildar on Muster Roll on 12.6.1984. His services were regularized w.e.f. 23.3.1993. That he is entitled to regularization of services with effect from the day he joined as Baildar on muster roll i.e. 12.6.1984 in view of the judgment of Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme Court 584 and he is also entitled to all the consequential benefits like increment, uniform allowance, medical facilities etc. and counting of service for the grant of promotion and service benefit of 12 years/24 years w.e.f. 12.6.1984. That the action of the management in not regularizing the services w.e.f. 12.6.1984 is illegal.

Respondent filed written reply pleading that the Hon'ble Apex Court passed the order for payment of equal pay for equal work and the same has been given to the workman from the date of his appointment. That the Hon'ble Apex Court only advised the Government to take appropriate action to regularize the service of daily-rated workers who were working continuously for more than six months. In pursuance of the said order, the Government of India framed policy and when the post was created the services of the workman were regularized w.e.f. 23.3.1993. That he is not entitled to claim allowance etc. prior thereto. That he is not entitled to regularization of service w.e.f. 12.6.1984.

In the rejoinder, the workman reiterated his case as set out in the claim petition and further pleaded that the Directorate of Horticulture regularized the services of workers immediately and even the service of Sob Nath and Krishan Pal were regularized w.e.f. 18.2.1986 and 5.12.1988. That he is also entitled to regularization of services from the date he joined the service i.e. 12.6.1984.

Parties were given opportunity to lead evidence.

In support of its case, Sh. Naval Kishore Singh (claimant No.2) appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition.

On the other hand the management has examined Sh. B.S. Sandhu, Executive Engineer who filed his affidavit reiterating the stand as taken in the written statement.

I have heard Sh. S.D. Sharma, counsel for the workman and Sh. Anish Babbar, counsel for the management.

Learned Counsel for the workman carried me through the judgment of Surinder Singh's case (supra) and submitted that the Hon'ble Apex Court asked the Government to regularize the services of temporary daily wagers from the date of their appointment, and as such, the workman is entitled for regularization of services w.e.f. 12.6.1984, when he joined the management as Baildar. He has further carried me through the copy of the judgment passed in LPA No. 622 of 2001 decided on 10.4.2013 titled The Director General of Works Vs. Regional Labour Commissioner and Others and submitted that the judgment of Surinder Singh's case (supra) has been implemented and the workers have been paid the arrears of pay etc., and as such, the present workman is also entitled to the regularization of the services from the date of his initial appointment.

Opposing this contention it was argued by the Learned Counsel for the management that the Hon'ble Supreme Court issued directions to pay the same salary and allowances to all the daily-rated employees as are paid to regular and permanent employees and that direction have been complied with. He has further submitted that the Hon'ble Apex Court only asked the

Government to initiate action to regularize the services of those employees who have been in continuous employment for more than six months on the date of the judgment. In pursuance of this order of the Apex Court, the Government initiated action and when the post was created, the service of the workman was regularized w.e.f. 23.3.1993 and workman cannot claim regularization of his services w.e.f. 12.6.1984 as no such direction was issued by the Hon'ble Apex Court for the regularization of the services of the daily-rated workers from the date of their initial appointment.

I have considered the respective contentions.

The Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme Court 584 observed as follow:-

"We allow both the writ petitions and direct the respondents, as in the Nehru Yuvak Kendras case (supra) to pay to the petitioners and all other daily rated employees, to pay the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were respectively employed. The respondents will pay to each of the petitioners a sum of Rs.1000/- towards their costs. We also record our regret that many employees are kept in service on a temporary daily wage basis without their services being regularized. We hope that the Government will take appropriate action to regularize the services of all those who have been in continuous employment for more than six months.

A perusal of the order shows that the Hon'ble Apex Court directed the Government to pay the same salary and allowances to daily-rated employees as are paid to regular and permanent employees w.e.f. the date when they were employed. It further observed that the Government would initiate action to regularize the services of the workmen who have been in continuous employment for more than six months. The Hon'ble Apex Court did not direct the Government to regularize the services of the daily-rated employees from the date of joining the service and the Government was only directed to pay them the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were employed.

The Government issued Office Order dated 7.6.1988 Annexure-2 giving the guidelines in view of the observations of the Hon'ble Apex Court for absorbing the casual workers against regular post and again the department issued directions for the regularization of the services of eligible muster roll workers vide letter dated 25.8.1988 Annexure-A3. It is the definite case of the respondent management that after following the guidelines and instructions, the posts were created and on receipt of the post; the service of the workman was regularized w.e.f.

23.3.1993. Thus, the department regularized the service of the workman when the post was created and it is nowhere the case of the workman that the post was existing on the day he was initially appointed as Baildar i.e. 12.6.1984. The workman has relied on a list of the employees prepared by Horticulture Department as well as Annexure A11 and A12 vide which Sob Nath and Krishan Pal was granted appointment to contend that other employees were regularized immediately after the pronouncement of the judgment of Hon'ble Supreme Court but he was denied the benefits for regularization of services w.e.f. 12.6.1984. Suffice it to say that nothing has come on the file that present workman is similarly placed as the employees find mentioned in Annexure A10 or in Annexure A11 and A12 and therefore he cannot claim parity with them, as much as there is nothing on the file that any post was existing on the day i.e. 12.6.1984 when the workman is claiming regularization of services. The case of Director General of Works (supra) is not applicable as in that case the only question involved was regarding the calculation of arrears of pay etc. in pursuance of the judgment of Surinder Singh's case (supra).

Thus, services were rightly regularized when the post was sanctioned and the action of the management in not regularizing services of workman w.e.f. 12.6.1984 is legal and justified and he is not entitled to any relief. The reference is accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 349.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.पी.डब्ल्यू.डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1275/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-42012/126/2005-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 349.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1275/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of CPWD and their workmen, received by the Central Government on 18/02/2015.

[No. L-42012/126/2005-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

## ANNEXURE

### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 1275/2006**

Registered on 9.8.2006

1. All India CPWD (MRM)  
Karamchari Sanghathan (Regd)  
through Zonal Secretary CPWD  
Store Building Sector 7B,  
Chandigarh
2. Sh. Raj Kumar Singh S/o  
Sh. Chhotey Singh, Chowkidar  
C/O All India CPWD (MRM)  
Karamchari Sangathan (Regd)  
through Zonal Secretary, CPWD  
Store Building, Sector 7B,  
Chandigarh

...Petitioner

#### Versus

1. The Union of India  
Through the Secretary  
to Government of India,  
Ministry of Personnel,  
Public Grievance and Pensions,  
Department of Personnel & Training,  
North Block, New Delhi
2. Director General of Works, CPWD,  
Nirman Bhawan, New Delhi
3. The Executive Engineer,  
Chandigarh Central Division II CPWD,  
Kendriya Sadan, Sector 9A,  
Chandigarh

...Respondents

#### APPEARANCES :

For the Workman : Sh. S. D. Sharma, Adv.

For the Management : Sh. Anish Babbar, Adv.

#### AWARD

Passed on 22.9.2014

Central Government vide Notification No. L-42012/126/2005 IR(CM-II) Dated 31.7.2006, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of CPWD, Chandigarh in not regularizing the services of Sh. Raj Kumar Singh, w.e.f. 7.5.1985 and action of not extending consequential benefits is legal and justified? If not, to what relief he is entitled to?”



In response to the notice, the workman (claimant No.2) appeared and submitted statement of claim pleading that he joined the management as Baildar on Muster Roll on 7.5.1985. His services were regularized w.e.f. 15.4.1993. That he is entitled to regularization of services with effect from the day he joined as Baildar on muster roll i.e. 7.5.1985 in view of the judgment of Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme Court 584 and he is also entitled to all the consequential benefits like increment, uniform allowance, medical facilities etc. and counting of service for the grant of promotion and service benefit of 12 years/24 years w.e.f. 7.5.1985. That the action of the management in not regularizing the services w.e.f. 7.5.1985 is illegal.

Respondent filed written reply pleading that the Hon'ble Apex Court passed the order for payment of equal pay for equal work and the same has been given to the workman from the date of his appointment. That the Hon'ble Apex Court only advised the Government to take appropriate action to regularize the service of daily-rated workers who were working continuously for more than six months. In pursuance of the said order, the Government of India framed policy and when the post was created the services of the workman were regularized w.e.f. 15.4.1993. That he is not entitled to claim allowance etc. prior thereto. That he is not entitled to regularization of service w.e.f. 7.5.1985.

In the rejoinder, the workman reiterated his case as set out in the claim petition and further pleaded that the Directorate of Horticulture regularized the services of workers immediately and even the service of Sob Nath and Krishan Pal were regularized w.e.f. 18.2.1986 and 5.12.1988. That he is also entitled to for regularization of services from the date he joined the service i.e. 7.5.1985.

Parties were given opportunity to lead evidence.

In support of its case, Sh. Raj Kumar (claimant No.2) appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition.

On the other hand the management has examined Sh. Jaswant Singh, Executive Engineer who filed his affidavit reiterating the stand as taken in the written statement.

I have heard Sh. S.D. Sharma, counsel for the workman and Sh. Anish Babbar, counsel for the management and also perused the written arguments submitted on behalf of workman in this case.

Learned counsel for the workman carried me through the judgment of Surinder Singh's case (supra) and submitted that the Hon'ble Apex Court asked the Government to regularize the services of temporary daily wagers from the date of their appointment, and as such, the workman is entitled for regularization of services w.e.f. 7.5.1985, when he joined the management as Baildar. He

has further carried me through the copy of the judgment passed in LPA No.622 of 2001 decided on 10.4.2013 titled The Director General of Works Vs. Regional Labour Commissioner and Others and submitted that the judgment of Surinder Singh's case (supra) has been implemented and the workers have been paid the arrears of pay etc., and as such, the present workman is also entitled to the regularization of the services from the date of his initial appointment.

Opposing this contention it was argued by the learned counsel for the management that the Hon'ble Supreme Court issued directions to pay the same salary and allowances to all the daily-rated employees as are paid to regular and permanent employees and that direction have been complied with. He has further submitted that the Hon'ble Apex Court only asked the Government to initiate action to regularize the services of those employees who have been in continuous employment for more than six months on the date of the judgment. In pursuance of this order of the Apex Court, the Government initiated action and when the post was created, the service of the workman was regularized w.e.f. 15.4.1993 and workman cannot claim regularization of his services w.e.f. 7.5.1985 as no such direction was issued by the Hon'ble Apex Court for the regularization of the services of the daily-rated workers from the date of their initial appointment.

I have considered the respective contentions.

The Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme court 584 observed as follow:-

"We allow both the writ petitions and direct the respondents, as in the Nehru Yuvak Kendras case (supra) to pay to the petitioners and all other daily rated employees, to pay the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were respectively employed. The respondents will pay to each of the petitioners a sum of Rs.1000/- towards their costs. We also record our regret that many employees are kept in service on a temporary daily wage basis without their services being regularized. We hope that the Government will take appropriate action to regularize the services of all those who have been in continuous employment for more than six months.

A perusal of the order shows that the Hon'ble Apex Court directed the Government to pay the same salary and allowances to daily-rated employees as are paid to regular and permanent employees w.e.f. the date when they were employed. It further observed that the Government would initiate action to regularize the services of the workmen who have been in continuous employment for more than six months. The Hon'ble Apex Court did not direct the

Government to regularize the services of the daily-rated employees from the date of joining the service and the Government was only directed to pay them the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were employed.

The Government issued Office Order dated 7.6.1988 Annexure-2 giving the guidelines in view of the observations of the Hon'ble Apex Court for absorbing the casual workers against regular post and again the department issued directions for the regularization of the services of eligible muster roll workers vide letter dated 25.8.1988 Annexure-A3. It is the definite case of the respondent management that after following the guidelines and instructions, the posts were created and on receipt of the post; the service of the workman was regularized w.e.f. 15.4.1993. Thus, the department regularized the service of the workman when the post was created and it is nowhere the case of the workman that the post was existing on the day he was initially appointed as Baildar i.e. 7.5.1985. The workman has relied on a list of the employees prepared by Horticulture Department as well as Annexure A11 and A12 vide which Sob Nath and Krishan Pal was granted appointment to contend that other employees were regularized immediately after the pronouncement of the judgment of Hon'ble Supreme Court but he was denied the benefits for regularization of services w.e.f. 7.5.1985. Suffice it to say that nothing has come on the file that present workman is similarly placed as the employees find mentioned in Annexure A10 or in Annexure A11 and A12 and therefore he cannot claim parity with them, as much as there is nothing on the file that any post was existing on the day i.e. 7.5.1985 when the workman is claiming regularization of services. The case of Director General of Works (supra) is not applicable as in that case the only question involved was regarding the calculation of arrears of pay etc. in pursuance of the judgment of Surinder Singh's case (supra).

Thus, services were rightly regularized when the post was sanctioned and the action of the management in not regularizing services of workman w.e.f. 7.5.1985 is legal and justified and he is not entitled to any relief. The reference is accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 350.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.पी.डब्ल्यू.डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या

1282/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-42012/183/2005-आईआर (सीएम-II)]

मो. जाहिर शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 350.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1282/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of CPWD and their workmen, received by the Central Government on 18/02/2015.

[No. L-42012/183/2005-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

### ANNEXURE

### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 1282/2006**

Registered on 13.9.2006

1. All India CPWD (MRM)  
Karamchari Sanghathan (Regd.)  
through Zonal Secretary CPWD  
Store Building Sector 7B,  
Chandigarh.
2. Sh. Satish Kumar S/o  
Sh. Gopal Das, Beldar  
C/o All India CPWD (MRM)  
Karamchari Sangathan (Regd.)  
through Zonal Secretary, CPWD  
Store Building, Sector 7B,  
Chandigarh

...Petitioner

### Versus

1. The Union of India  
Through the Secretary  
to Government of India,  
Ministry of Personnel,  
Public Grievance and Pensions,  
Department of Personnel & Training,  
North Block, New Delhi.
2. Director General of Works, CPWD,  
Nirman Bhawan, New Delhi.
3. The Executive Engineer,  
Chandigarh Central Division II CPWD,  
Kendriya Sadan, Sector 9A,  
Chandigarh

...Respondents

**APPEARANCES :**

For the workman : Sh. S. D. Sharma, Adv.  
 For the Management : Sh. Anish Babbar, Adv.

**AWARD**

Passed on-23.9.2014

Central Government vide Notification No. L-42012/183/2005-IR(CM-II) Dated 23.8.2006, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of CPWD, Chandigarh in not regularizing the services of Sh. Satish Kumar, Beldar w.e.f. 4.3.1981 to 12.1.1993 and action of not extending consequential benefits is legal and justified? If not, to what relief he is entitled to?”

In response to the notice, the workman (claimant No.2) appeared and submitted statement of claim pleading that he joined the management as Baildar on Muster Roll on 4.3.1981. His services were regularized w.e.f. 13.1.1993. That he is entitled to regularization of services with effect from the day he joined as Baildar on muster roll i.e. 4.3.1981 in view of the judgment of Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme Court 584 and he is also entitled to all the consequential benefits like increment, uniform allowance, medical facilities etc. and counting of service for the grant of promotion and service benefit of 12 years/24 years w.e.f. 4.3.1981. That the action of the management in not regularizing the services w.e.f. 4.3.1981 is illegal.

Respondent filed written reply pleading that the Hon'ble Apex Court passed the order for payment of equal pay for equal work and the same has been given to the workman from the date of his appointment. That the Hon'ble Apex Court only advised the Government to take appropriate action to regularize the service of daily-rated workers who were working continuously for more than six months. In pursuance of the said order, the Government of India framed policy and when the post was created the services of the workman were regularized w.e.f. 13.1.1993. That he is not entitled to claim allowance etc. prior thereto. That he is not entitled to regularization of service w.e.f. 4.3.1981.

In the rejoinder, the workman reiterated his case as set out in the claim petition and further pleaded that the Directorate of Horticulture regularized the services of workers immediately and even the service of Sob Nath and Krishan Pal were regularized w.e.f. 18.2.1986 and 5.12.1988. That he is also entitled to regularization of services from the date he joined the service i.e. 4.3.1981.

Parties were given opportunity to lead evidence.

In support of its case, Sh. Satish Kumar (claimant No.2) appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition.

On the other hand the management has examined Sh. Jaswant Singh, Executive Engineer who filed his affidavit reiterating the stand as taken in the written statement.

I have heard Sh. S.D. Sharma, counsel for the workman and Sh. Anish Babbar, counsel for the management.

Learned counsel for the workman carried me through the judgment of Surinder Singh's case (supra) and submitted that the Hon'ble Apex Court asked the Government to regularize the services of temporary daily wagers from the date of their appointment, and as such, the workman is entitled for regularization of services w.e.f. 4.3.1981, when he joined the management as Baildar. He has further carried me through the copy of the judgment passed in LPA No.622 of 2001 decided on 10.4.2013 titled The Director General of Works Vs. Regional Labour Commissioner and Others and submitted that the judgment of Surinder Singh's case (supra) has been implemented and the workers have been paid the arrears of pay etc., and as such, the present workman is also entitled to the regularization of the services from the date of his initial appointment.

Opposing this contention it was argued by the learned counsel for the management that the Hon'ble Supreme Court issued directions to pay the same salary and allowances to all the daily-rated employees as are paid to regular and permanent employees and that direction have been complied with. He has further submitted that the Hon'ble Apex Court only asked the Government to initiate action to regularize the services of those employees who have been in continuous employment for more than six months on the date of the judgment. In pursuance of this order of the Apex Court, the Government initiated action and when the post was created, the service of the workman was regularized w.e.f. 13.1.1993 and workman cannot claim regularization of his services w.e.f. 4.3.1981 as no such direction was issued by the Hon'ble Apex Court for the regularization of the services of the daily-rated workers from the date of their initial appointment.

I have considered the respective contentions.

The Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme court 584 observed as follow:-

“We allow both the writ petitions and direct the respondents, as in the Nehru Yuvak Kendras case (supra) to pay to the petitioners and all other daily

rated employees, to pay the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were respectively employed. The respondents will pay to each of the petitioners a sum of Rs.1000/- towards their costs. We also record our regret that many employees are kept in service on a temporary daily wage basis without their services being regularized. We hope that the Government will take appropriate action to regularize the services of all those who have been in continuous employment for more than six months.

A perusal of the order shows that the Hon'ble Apex Court directed the Government to pay the same salary and allowances to daily-rated employees as are paid to regular and permanent employees w.e.f. the date when they were employed. It further observed that the Government would initiate action to regularize the services of the workmen who have been in continuous employment for more than six months. The Hon'ble Apex Court did not direct the Government to regularize the services of the daily-rated employees from the date of joining the service and the Government was only directed to pay them the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were employed.

The Government issued Office Order dated 7.6.1988 Annexure-2 giving the guidelines in view of the observations of the Hon'ble Apex Court for absorbing the casual workers against regular post and again the department issued directions for the regularization of the services of eligible muster roll workers vide letter dated 25.8.1988 Annexure-A3. It is the definite case of the respondent management that after following the guidelines and instructions, the posts were created and on receipt of the post; the service of the workman was regularized w.e.f. 13.1.1993. Thus, the department regularized the service of the workman when the post was created and it is nowhere the case of the workman that the post was existing on the day he was initially appointed as Baildar i.e. 4.3.1981. The workman has relied on a list of the employees prepared by Horticulture Department as well as Annexure A11 and A12 vide which Sob Nath and Krishan Pal was granted appointment to contend that other employees were regularized immediately after the pronouncement of the judgment of Hon'ble Supreme Court but he was denied the benefits for regularization of services w.e.f. 4.3.1981. Suffice it to say that nothing has come on the file that present workman is similarly placed as the employees find mentioned in Annexure A10 or in Annexure A11 and A12 and therefore he cannot claim parity with them, as much as there is nothing on the file that any post was existing on the day i.e. 4.3.1981 when the workman is claiming regularization of services. The case of Director General of Works (supra) is not applicable as in that case the only

question involved was regarding the calculation of arrears of pay etc. in pursuance of the judgment of Surinder Singh's case (supra).

Thus, services were rightly regularized when the post was sanctioned and the action of the management in not regularizing services of workman w.e.f. 4.3.1981 is legal and justified and he is not entitled to any relief. The reference is accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 351.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ज. नवो. वि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1279/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-42012/137/2005-आईआर (सीएम-II)]

मो. जाहिर शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 351.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1279/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Navodaya Vidyalaya Samiti, Jawahar Navodaya Vidyalaya and their workmen, received by the Central Government on 18/02/2015.

[No. L-42012/137/2005-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

# ANNEXURE

## IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 1279/2006**

Registered on 9.8.2006

Sh. Gurandita Singh,  
S/o Sh. Bharpur Singh,  
C/o Trade Union Council,  
Patiala, Punjab

...Petitioner

# Versus

The Director,  
Navodaya Vidyalaya Samiti,  
A-39, Kailash Colony, New Delhi.



The Deputy Director,  
Navodaya Vidyalaya Samiti,  
Regional Office, Sector 42-A,  
Chandigarh.

The Principal, JNV,  
Village Teona Pujariana,  
District Bathinda,  
Punjab

...Respondents

## APPEARANCES

For the workman : Ex parte

For the Management : Sh. D.R. Sharma, Adv.

## AWARD

Passed on-14.10.2014

Central Government vide Notification No. L-42012/137/2005-IR(CM-II) Dated 27.7.2006, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of Navodaya Vidyalaya Samiti in terminating the services of Sh. Gurandita Singh, Ex-LDC w.e.f. 30.4.2001 without complying with the provisions of Section 25 F, G and H of the I.D. Act is legal and justified? If not, to what relief the concerned workman is entitled and from which date?”

In response to the notice, the workman appeared and submitted statement of claim pleading that he worked with the management from 9.10.1998 to 29.4.2001 as LDC at village Teona. His services were terminated on 30.4.2001 without serving any notice or paying him compensation. He was drawing Rs. 2243/- per month. That Sh. Ram Janam who was junior to him was kept in service. That his services were terminated in violation of Section 25F, G and H of the Act and he is to be reinstated in service.

Management filed written reply pleading that workman was engaged on daily wage basis and he did not work continuously. That he was not appointed on regular basis and he cannot claim the protection of the provisions of the Act. That the workman raised a demand notice in March, 2005 whereas, his services came to an end on 30.4.2001 and as such the claim is barred by delay.

Parties were given opportunities to lead their evidence.

In support of his case the workman appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition.

On the other hand the management has examined Sh. K.K. Gautam who filed his affidavit reiterating the stand taken by the management in written statement.

The workman has proceeded against ex parte vide order dated 17.9.2014.

I have heard Sh. D.R. Sharma, counsel for the management and perused the file.

The definite case of the workman is that he worked with the management from 9.10.1998 to 29.4.2001 continuously as LDC. The management did not deny this fact and rather pleaded that he was engaged intermittently as per requirement of the work and he did not work continuously. The management has examined Sh. K.K. Gautam but he did not prove any record to establish that the workman was engaged as per requirement and he did not attend to the duties regularly. There is no denial of the fact that workman was not appointed as per rules and regulations governing the institution and therefore it cannot be said that he was appointed on regular basis. However he worked continuously with the management from 9.10.1998 to 29.4.2001 and his services were terminated on 30.4.2001.

Again it is not disputed that he was not served with any notice and any retrenchment compensation was paid. Thus, the termination of his services is in violation of the Section 25F of the Act. As per letter dated 7.5.2003 the institution has framed rules for recruitment of its employees including LDC and since the earlier appointment of the workman was also not as per rules, he cannot be reinstated in service. The only option left is to pay him compensation. According to him his last drawn salary was Rs.2243/-. Considering the length of service and the period lapsed, he is awarded Rs.1,00,000/- as just compensation for retrenchment of his services.

In result, it is held that the action of the management in terminating the services of the workman without complying with the provisions of Section 25F is illegal and unjust and he is entitled to compensation of Rs.100000/-. Respondent management would pay him the awarded amount within three months of the publication of the award failing which he will be entitled to the interest at the rate of 6 per cent per annum till realization. The reference is accordingly answered in favour of the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 352.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पी. जी. आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 916/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[ सं. एल-42012/200/2003-आईआर (सीएम-II) ]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 352.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 916/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of PGIMER, Sector-12 and their workmen, received by the Central Government on 18/02/2015.

[No. L-42012/200/2003-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

### ANNEXURE

### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 916/2005**

Registered on 13.9.2005

Sh. Bahadur Singh, S/o Sh. Bant Singh,  
C/o Sh. H.S. Hundal & P.B. Sharma,  
Auth. Rep. Chamber No.112,  
Distt. Courts Complex,  
Sector 17, Chandigarh

...Petitioner

### Versus

The Director, PGI,  
Postgraduate Institute of  
Medical Education & Research,  
Chandigarh

...Respondents

### APPEARANCES:

For the workman : Sh. T.S. Saldi, Adv.

For the Management : Sh. N.K. Zakhmi, Adv.

### AWARD

Passed on-27.10.2014

Central Government vide Notification No. L-42012/200/2003-IR(CM-II) Dated 29.7.2004, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of PGI, Chandigarh in terminating the services of Sh. Bahadur Singh, Ex-Electrician w.e.f. 31.8.2001 is legal and justified? If not, to what relief the workman is entitled?”

In response to the notice, the workman submitted statement of claim pleading that he was appointed as Electrician on daily wage basis from 1.9.2000 to 30.11.2000 with the respondent management. Thereafter, break was given and he was re-appointed from 1.3.2001 to 30.5.2001.

It is pleaded that on 1.6.2001, he was asked to serve the management under a fictitious name. He worked with the management under the name of Harnek Singh from 1.6.2001 to 31.8.2001 when his services were terminated. That he attended the complaints concerning electricity of various departments under his own name as mentioned in the complaint register. That an unfair labour practice was adopted by the Department. That his termination being in contravention of the provisions of the Act is illegal and he is to be reinstated in service with full back wages.

The respondent management filed written statement pleading that workman was employed on need basis and for 89 days from 1.9.2000 to 30.11.2000. He was again engaged for the period 1.3.2001 to 31.5.2001. That he did not complete 240 days continuous service with the management. He was simply a daily wage labourer and he cannot claim benefit of the provisions of the Act. All other assertions that he was forced to work under the fictitious name of Harnek Singh were denied.

Parties were given opportunities to lead their evidence.

In support of his case workman appeared in the witness box and filed his affidavit supporting the averments as contained in the claim petition.

On the other hand the respondent has examined Sh. Jai Dev who filed his affidavit reiterating the stand of the respondent management.

I have heard Sh. T.S. Saldi, counsel for the workman and Sh. N.K. Zakhmi, counsel for the management.

It was argued by the learned counsel for the workman that workman worked under his real name from 1.3.2001 to 30.5.2001 and he worked under the fictitious name from 1.6.2001 to 31.8.2001 and the same is evident from the complaint register when he attended the complaints under his real name and the practice adopted by the management is unfair labour practice and since termination of his services is in violation of the provisions of the Act, he is to be reinstated in service.

I have considered the contention of the learned counsel.

It may be added that the management has categorically pleaded that the workman was engaged on need basis and only for 89 days from 1.9.2000 to 30.11.2000 and then for 1.3.2001 to 30.5.2001. The workman while appearing in the witness box admit that he was engaged for 89 days from 1.3.2001 to 30.5.2001. When it was so, the question of asking to work under some fictitious name with the respondent management do not arise at all. The workman claimed that he worked under fictitious name with the management from 1.6.2001 to 31.8.2001 but nothing has come on file to prove that he received any salary for the said period from respondent management even in his fictitious name. He did not examine any of the co-employee

to lend corroboration to his statement that he actually worked with the respondent management from 1.6.2001 to 31.8.2001. Thus it cannot be said from the mere assertion of the workman that he worked with the respondent management from 1.6.2001 to 31.8.2001 under some fictitious name or the management adopted some unfair labour practice.

Since the workman was engaged for a specific period i.e. for 89 days from 1.3.2001 to 30.5.2001, the termination of his services do not fall within the definition of 'retrenchment' as his services came to an end on the expiry of the contract between him and the management and his termination cannot be held as illegal and unjustified. In result, the reference is answered that termination of the services of the workman is legal and justified and he is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 353.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.पी.डब्ल्यू.डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1276/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-42012/130/2005-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 353.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1276/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of CPWD and their workmen, received by the Central Government on 18/02/2015.

[No. L-42012/130/2005-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 1276/2006**

Registered on 9.8.2006

1. All India CPWD (MRM)  
Karamchari Sanghathan (Regd)

through Zonal Secretary CPWD  
Store Building Sector 7B,  
Chandigarh.

2. Sh. Jagdish Chand, Chowkidar  
C/O All India CPWD (MRM)  
Karamchari Sangathan (Regd)  
through Zonal Secretary,  
CPWD Store Building, Sector 7B,  
Chandigarh ...Petitioner

#### Versus

1. The Union of India Through  
the Secretary to Government of India,  
Ministry of Personnel, Public Grievance  
and Pensions, Department of  
Personnel & Training, North Block,  
New Delhi.
2. Director General of Works, CPWD,  
Nirman Bhawan, New Delhi.
3. The Executive Engineer,  
Chandigarh Central Division II CPWD,  
Kendriya Sadan, Sector 9A,  
Chandigarh ...Respondents

#### APPEARANCES:

For the workman : Sh. S.D. Sharma. Adv.

For the Management : Sh. Anish Babbar, Adv.

#### AWARD

Passed on-23.9.2014

Central Government vide Notification No. L-42012/130/2005-IR(CM-II) Dated 31.7.2006, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of CPWD, Chandigarh in not regularizing the services of Sh. Jagdish Chand Verma, w.e.f. 28.4.1982 to 17.2.1993 and action of not extending consequential benefits is legal and justified? If not, to what relief he is entitled to?”

In response to the notice, the workman (claimant No.2) appeared and submitted statement of claim pleading that he joined the management as Baildar on Muster Roll on 28.4.1982. His services were regularized w.e.f. 17.2.1993. That he is entitled to regularization of services with effect from the day he joined as Baildar on muster roll i.e. 28.4.1982 in view of the judgment of Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme Court 584 and he is also entitled to all the consequential benefits like increment, uniform allowance, medical facilities etc. and counting of service for the grant of promotion and service

benefit of 12 years/24 years w.e.f. 28.4.1982. That the action of the management in not regularizing the services w.e.f. 28.4.1982 is illegal.

Respondent filed written reply pleading that the Hon'ble Apex Court passed the order for payment of equal pay for equal work and the same has been given to the workman from the date of his appointment. That the Hon'ble Apex Court only advised the Government to take appropriate action to regularize the service of daily-rated workers who were working continuously for more than six months. In pursuance of the said order, the Government of India framed policy and when the post was created the services of the workman were regularized w.e.f. 17.2.1993. That he is not entitled to claim allowance etc. prior thereto. That he is not entitled to regularization of service w.e.f. 28.4.1982.

In the rejoinder, the workman reiterated his case as set out in the claim petition and further pleaded that the Directorate of Horticulture regularized the services of workers immediately and even the service of Sob Nath and Krishan Pal were regularized w.e.f. 18.2.1986 and 5.12.1988. That he is also entitled to for regularization of services from the date he joined the service i.e. 28.4.1982.

Parties were given opportunity to lead evidence.

In support of its case, Sh. Jagdish Chand Verma (claimant No.2) appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition.

The evidence of the management was closed by order vide order dated 23.7.2014.

I have heard Sh. S.D. Sharma, counsel for the workman and Sh. Anish Babbar, counsel for the management and also perused the written arguments submitted on behalf of workman in this case.

Learned counsel for the workman carried me through the judgment of Surinder Singh's case (supra) and submitted that the Hon'ble Apex Court asked the Government to regularize the services of temporary daily wagers from the date of their appointment, and as such, the workman is entitled for regularization of services w.e.f. 28.4.1982, when he joined the management as Baildar. He has further carried me through the copy of the judgment passed in LPA No.622 of 2001 decided on 10.4.2013 titled The Director General of Works Vs. Regional Labour Commissioner and Others and submitted that the judgment of Surinder Singh's case (supra) has been implemented and the workers have been paid the arrears of pay etc., and as such, the present workman is also entitled to the regularization of the services from the date of his initial appointment.

Opposing this contention it was argued by the learned counsel for the management that the Hon'ble Supreme Court issued directions to pay the same salary and allowances to all the daily-rated employees as are

paid to regular and permanent employees and that direction have been complied with. He has further submitted that the Hon'ble Apex Court only asked the government to initiate action to regularize the services of those employees who have been in continuous employment for more than six months on the date of the judgment. In pursuance of this order of the Apex Court, the Government initiated action and when the post was created, the service of the workman was regularized w.e.f. 17.2.1993 and workman cannot claim regularization of his services w.e.f. 28.4.1982 as no such direction was issued by the Hon'ble Apex Court for the regularization of the services of the daily-rated workers from the date of their initial appointment.

I have considered the respective contentions.

The Hon'ble Apex Court in Surinder Singh Vs. CPWD reported in AIR 1986 Supreme court 584 observed as follow:-

"We allow both the writ petitions and direct the respondents, as in the Nehru Yuvak Kendras case (supra) to pay to the petitioners and all other daily rated employees, to pay the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were respectively employed. The respondents will pay to each of the petitioners a sum of Rs.1000/- towards their costs. We also record our regret that many employees are kept in service on a temporary daily wage basis without their services being regularized. We hope that the government will take appropriate action to regularize the services of all those who have been in continuous employment for more than six months.

A perusal of the order shows that the Hon'ble Apex Court directed the Government to pay the same salary and allowances to daily-rated employees as are paid to regular and permanent employees w.e.f. the date when they were employed. It further observed that the Government would initiate action to regularize the services of the workmen who have been in continuous employment for more than six months. The Hon'ble Apex Court did not direct the Government to regularize the services of the daily-rated employees from the date of joining the service and the Government was only directed to pay them the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were employed.

The Government issued Office Order dated 7.6.1988 Annexure-2 giving the guidelines in view of the observations of the Hon'ble Apex Court for absorbing the casual workers against regular post and again the department issued directions for the regularization of the services of eligible muster roll workers vide letter dated 25.8.1988 Annexure-A3. It is the definite case of the



respondent management that after following the guidelines and instructions, the posts were created and on receipt of the post; the service of the workman was regularized w.e.f. 17.2.1993. Thus, the department regularized the service of the workman when the post was created and it is nowhere the case of the workman that the post was existing on the day he was initially appointed as Baildar i.e. 28.4.1982. The workman has relied on a list of the employees prepared by Horticulture Department as well as Annexure A11 and A12 vide which Sob Nath and Krishan Pal was granted appointment to contend that other employees were regularized immediately after the pronouncement of the judgment of Hon'ble Supreme Court but he was denied the benefits for regularization of services w.e.f. 28.4.1982. Suffice it to say that nothing has come on the file that present workman is similarly placed as the employees find mentioned in Annexure A10 or in Annexure A11 and A12 and therefore he cannot claim parity with them, as much as there is nothing on the file that any post was existing on the day i.e. 28.4.1982 when the workman is claiming regularization of services. The case of Director General of Works (supra) is not applicable as in that case the only question involved was regarding the calculation of arrears of pay etc. in pursuance of the judgment of Surinder Singh's case (supra).

Thus, services were rightly regularized when the post was sanctioned and the action of the management in not regularizing services of workman w.e.f. 28.4.1982 is legal and justified and he is not entitled to any relief. The reference is accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 18 फरवरी, 2015

**का.आ. 354.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ.सी.आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 43/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/02/2015 को प्राप्त हुआ था।

[सं. एल-22011/13/2010-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 18th February, 2015

**S.O. 354.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2010) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, Prehari Security and Detective

Services Pvt. Ltd. and their workmen, received by the Central Government on 18/02/2015.

[No. L-22011/13/2010-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

### ANNEXURE

### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 43/2010**

Registered on 28.6.2010

Sh. Tejinder Kumar, S/o Sh. Sher Chand,  
H.No.323, Gali No.4, Ramdev Nagri,  
Abohar, Distt. Ferozepur ...Petitioner

### Versus

The District Manager,  
Food Corporation of India,  
District Office, Malwal Road,  
Ferozepur City, Punjab.

The Managing Director,  
Prehari Security and Detective Services, Pvt., Ltd.,  
Jallowkhanna Chowk, Kapurthala.

The General Manager,  
Food Corporation of India,  
Regional Office, Punjab Region,  
Sector 31-A, Bay No.34 to 38,  
Chandigarh, Punjab ...Respondents

### Appearances :

For the workman : Sh. Harpal Singh, Adv.

For the Management : Sh. N.K. Zakhmi, Adv.

### AWARD

Passed on-16.10.2014

Central Government vide Notification No. L-22011/13/2010-IR(CM-II) Dated 15.6.2010, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

1. "Whether the contract between the management of FCI, Ferozepur and the Contractor namely M/s Prehari Security and Detective Services Ltd., is sham and bogus?
2. Whether the demand of Sh. Tejinder Kumar S/o Sh. Sher Chand for reinstatement with full back wages and to treat him as regular employee of the FCI is legal and justified?
3. To what relief is the workman concerned entitled?"

In response to the notice, the workman appeared and submitted statement of claim that he was appointed on 1.4.1993 as Security Guard at FCI Godown, Abohar, where he worked till 10.8.1998 when his services were terminated illegally. He has further pleaded that his attendance was marked by the staff of the FCI who used to pay him salary. The disciplinary action and control also vest with the FCI. That the termination of his services is illegal and he be reinstated in service with back wages.

Respondent management filed written reply pleading that the work of Security Guard is not of a regular nature and it was only seasonal which was being given by the management to the contractor to provide labourer. It was given to different agencies and it was given to Bright Security Service, Amritsar in the year 1991. FCI used to make payment to the contractor who in turn was making the payment to the labourers. That the workman is not an employee of the FCI.

Parties were given opportunities to lead evidence.

In support of his case, the workman appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition.

On the other hand the management examined Rahul Chandan who filed his affidavit reiterating the stand taken by the respondent management in the written statement.

I have heard Sh. Harpal Singh, counsel for the workman and Sh. N.K. Zakhmi, counsel for the management.

It was contended by the learned counsel for the workman that workman was appointed by the FCI who used to pay him salary and his attendance was also marked by the employees of the FCI who was also deducting Rs.100/- every month from his pay and as such, he is an employee of the FCI who used to exercise full control over him and the contract entered into between the FCI and the Bright Security Service is a sham transaction.

It may be added at the outset that no appointment letter was issued to the workman and he was not engaged as per any Rules and Regulations of the management for recruitment. On mere assertion of the workman, it cannot be said that he was an employee of the respondent management. He did not produce or prove any record on the file that his presence was ever marked by the employees of the respondent management and it also used to pay him any salary or was exercising any control over him. When he was not paid any salary by the management, it cannot be said that he was ever an employee of the respondent management. No doubt, the Court can see whether the contract entered into between the management and the contractor is a sham transaction, but no circumstance has come on the file to establish that contract was just a camouflage and the workman was actually

employed by the FCI. Thus, in the absence of any cogent and convincing evidence, it cannot be held that workman was ever appointed by the FCI. Being so, it cannot be said that the contract between the agency and the respondent management was a sham transaction and that too without the impleading of the agency as a party in the reference and the workman is not entitled to any relief.

In result, the reference is answered that the contract between the respondent management and the contractor was not a sham transaction and since he was not an employee of the respondent management, it cannot be said that his services were terminated by it and he is not entitled to any relief and the reference is answered accordingly.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 355.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 47/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/171/2000-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th February, 2015

**S.O. 355.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Union Bank of India and their workmen, received by the Central Government on 19/02/2015.

[No.L-12012/171/2000-IR(B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/47/2001**

Shri Ramesh Kumar Rekwar,  
S/o D.L.Rekwar,  
House No. 61-Purana, 73- Naya,  
Vehicle Estate, Madai,  
Jabalpur

...Workman

**Versus**

Dy. General Manager,  
Union Bank of India,  
Regional Office,  
Russel Chowk,  
Jabalpur

...Management

### AWARD

Passed on this 13th day of November 2014

1. As per letter dated 19/22-2-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/171/2000-IR(B-II) . The dispute under reference relates to:

“ Whether the action of the management of Union Bank of India, Regional Office, Jabalpur (MP) in denying to regularize and in terminating the services of Shri Ramesh Kumar Rekwar S/o Late Damrilal w.e.f. 9-8-99 is legal and justified? If not, what relief the disputant is entitled to?”

2. After receiving reference, notices were issued to the parties. Case of Ist party workman is that in 1986, M/S Tornado Enterprises, Jabalpur failed to repay loan taken from IInd party. As said industry was closed, for supervision of machines and other articles, Ist party workman was engaged as watchman. He was paid Rs.500/- per month. Appointment was made orally. Ist party workman continued to work as watchman till 8-8-99. He served with devotion, he was working more than 12 hours per day. His service record was excellent. Any complaint was not submitted against him. The services of workman were terminated without notice, he was not paid retrenchment compensation. Workman had submitted applications for his regularization. He was assured that the matter would be placed in meeting before Higher Authorities. Instead of regularizing his services, he was terminated. On such ground, workman is praying for reinstatement with back wages.

3. IInd party filed Written Statement at page 4/1 to 4/12 denying claim of workman. IInd party denied appointment of Ist party workman at any time in City Branch, Jabalpur. There is no employee employer relationship. The recruitment of watchman are made from Arm Guards appointing ex-serviceman after notifying vacancies. The vacancies are also notified in Employment Exchange. For appointment of Security Guard, armed licence is required, such procedure was not followed in case of workman. IInd party reiterated that workman was not its employee, he was employee of M/S Tornado Enterprises. Bank obtained judgment and decree from the Court of District Judge against M/S Tornado Enterprises. The said owner of unit handed over the possession of the unit to the Bank and after obtaining permission from the Competent Executing Court, said unit was sold to M/S Frontier Motors and possession was given to them on 3-8-99. Ist party

workman as watchman mostly may be entitled to received compensation amount payable under Section 25 FF of I.D.Act from M/S Tornado enterprises. That Ist party workman was working in M/S Tornado Enterprises prior to handing over it to the Bank by owner of the unit. Any small scale industrial unit was given security by its owner till the same was sold. Reiterating above contentions, IInd party submits that workman was not its employee. There is no employer employee relationship. There was no question of issuing notice or payment of retrenchment compensation.

4. It is further submitted that M/S Frontier Motors did not continue services of workman. He was disengaged from service. IInd party could not be held responsible for it. That Branch Manager is not empowered to appoint watchman, security guard or armed guard. The post of security guard is a trust post and they are appointed strictly by adopting recruitment rules. It is denied that workman was working more than 30 years and arbitrarily his services were terminated by IInd party. On such ground, IInd party prays for rejection of claim.

5. Ist party workman submitted rejoinder at Page 6/1 to 6/6 reiterating its contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |                     |
|--|---------------------|
| (i) Whether the action of the management of Union Bank of India, Regional Office, Jabalpur (MP) in denying to regularize and in terminating the services of Shri Ramesh Kumar Rekwar S/o Late Damrilal w.e.f. 9-8-99 is legal and justified? | In Negative         |
| (ii) If not, what relief the workman is entitled to?”  | As per final order. |

### REASONS

7. The terms of reference relates to denying regularisation of Ist party workman and legality of termination of his service from 9-8-99. IInd party had denied appointment of workman. The employer employee relationship is denied. It is contented that workman was employee of M/S Tornado Enterprises. The Bank had advanced loan to it and as loan was not repaid, the properties of M/S Tornado Enterprises were sold.

8. Workman filed affidavit of his evidence supporting contentions in statement of claim. That he was engaged by IInd party in July 1989. He was paid Rs. 500/- per month. He was working as watchman. He continued to work till 8-8-99. His services were discontinued without notice, retrenchment compensation was not paid. From re-

examination of workman, documents Exhibit W-5 to W-9 are proved. Watchman in his cross-examination says that application Exhibit W-5 was submitted to Branch Manager about his grievance for less payment. That no appointment order was given to him where Rasid and Chhotelal were working, he also worked at same place. From 1989 to 2000, he was working in the branch of the Bank. He was working as watchman. He was paid Rs. 500/- per month under voucher. He and Rasid were paid under the same voucher. He submitted 3-4 applications for regularization of service. He denies that he was not working in the Bank.

9. Management's witness Arun Kumar Bhole filed affidavit of his evidence supporting contentions in Written Statement of IInd party denying workman was engaged by the Bank as Security Guard. His evidence is devoted about eligibility, qualification for appointment of security guards. Names are called from Employment Exchange etc. workman was not appointed by the bank. He was employee of M/S Tornado Enterprises. Said unit had failed to repay loan taken from Bank, unit was sold. Workman was not holding gun licence. He was not eligible for appointment as security guard. Management's witness in his cross-examination says workman was not appointed as watchman in 1979. The witness of management denied that workman was engaged as security guard in the branch. He denies workman was paid Rs. 500/- per month for 10 years. Witness was recalled for cross-examination, witness admitted copy of judgment in Civil Suit No. 437/A/94-Exhibit M-1. The rules about recruitment are not produced. He denies suggestion that for denying claim of workman, he says that workman was employee of M/S Tornado Enterprises.

10. The documents produced by workman are admitted. In Exhibit W-1 there is clear reference that unit of M/S Tornado Enterprises was taken over by the Bank. Two watchman were working in said unit. The letter was addressed to Asstt. Engineer, Public Health Criminal Sub Division. In W-2 admitted by IInd party, there is clear reference that two watchman were appointed at unit of Tornado Enterprises and antisocial elements have broken locks admitted to commit theft of property. In W-3, reference is found that two watchman were appointed by Bank in the unit of M/S Tornado Enterprises attempt to commit theft was made. Those documents are dated 29-05-86, 5-5-95, 26-8-95 clearly shows that watchman were working in unit of M/S Tornado Enterprises. In W-3, it is clearly mentioned that those watchman were appointed by the Bank. Vide application Exhibit W-5, W-6 workman had requested for his regularization. Exhibit W-8 workman issued notice through the counsel. The evidence of workman is supported by Exhibit W-1 to W-3. The management's witness in his cross-examination says that he has not produced documents about recruitment policy.

Evidence of management's witness is not corroborated by documents. On the other hand, copies of judgments in Civil Suit No. 430-A/94 shows that said suit was filed by Bank for recovery of Rs. 24,69,699.90 against M/S Tornado Enterprises. Said suit was decreed exparte. Bank was permitted to sale property of M/S Tornado Enterprises. The permission was granted by Court. However the documents relating to sale of property to Tornado Enterprises on record rather the property was sold in 1999. IInd party has not produced documents about taking over property of M/S Tornado enterprises and its conditions. No evidence is adduced that workman was appointed by M/S Tornado Enterprises and its salary from 1989 till August 1999 was aid by Tornado Enterprises. Thus it is clear that the evidence of workman is corroborated by documentary evidence that he was appointed as watchman by IInd party and paid Rs. 500/- per month. His services are terminated without notice, no retrenchment compensation is paid to him. Therefore I record my finding in Point No.1 in Negative.

11. **Point No.2-** As per my finding on Point No.1, services of workman are terminated without notice in violation of Section 25-F. workman was working from 1989 to 1999 for about 11 years. Considering the wages paid to workman, he was not appointed following recruitment rules, reinstatement of workman would not be justified. Reasonable compensation would be justified. In my considered view, workman was paid Rs. 500/- per month. He worked for about 11 years, compensation Rs. One Lakh would be reasonable. Accordingly I record my finding in Point No.2.

12. In the result, award is passed as under:-

- (1) The action of the management of Union Bank of India, Regional Office, Jabalpur (MP) in denying to regularize and in terminating the services of Shri Ramesh Kumar Rekwar S/o Late Damrilal w.e.f. 9-8-99 is not legal.
- (2) IInd party is directed to pay compensation Rs. One Lakh to workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 356.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 46/2001)



को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[ सं. एल-12012/170/2000-आईआर (बी-II) ]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th February, 2015

**S.O. 356.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 46/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Union Bank of India and their workmen, received by the Central Government on 19/02/2015.

[No.L-12012/170/2000-IR(B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/46/2001**

Shri Roshan Ara, Khalid Jaki,  
Munia Aktar, Miun Alam, Aryan Aktar  
& Sadf, LR's of

Shri Abdul Rasid, S/o Lae Abdul Hamid,  
House No. 300, Saree Market,  
South Milonianj,  
Jabalpur

...Workman

#### Versus

Dy.General Manager,  
Union Bank of India,  
Regional Office,  
Russel Chowk,  
Jabalpur

...Management

#### AWARD

Passed on this 13th day of November 2014

1. As per letter dated 19/22-2-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/170/2000-IR(B-II) . The dispute under reference relates to:

“ Whether the action of the management of Union Bank of India, Regional Office, Jabalpur (MP) in denying regularization and terminating the services of Shri Abdul Rasid S/o Late Abdul Hamid w.e.f. 9-8-99 is legal and justified? If not, what relief the disputant is entitled to?”

2. After receiving reference, notices were issued to the parties. Case of Ist party workman is that in 1986, M/S Tornado Enterprises, Jabalpur failed to repay loan taken from IInd party. As said industry was closed, for supervision of machines and other articles, Ist party workman was engaged as watchman. He was paid Rs. 500/- per month. Appointment was made orally. Ist party workman continued to work as watchman till 8-8-99. He served with devotion, he was working more than 12 hours per day. His service record was excellent. Any complaint was not submitted against him. The services of workman were terminated without notice, he was not paid retrenchment compensation. Workman had submitted applications for his regularization. He was assured that the matter would be placed in meeting before Higher Authorities. Instead of regularizing his services, he was terminated. On such ground, workman is praying for reinstatement with back wages.

3. IInd party filed Written Statement at page 4/1 to 4/12 denying claim of workman. IInd party denied appointment of Ist party workman at any time in City Branch, Jabalpur. There is no employee employer relationship. The recruitment of watchman are made from Arm Guards appointing ex-serviceman after notifying vacancies. The vacancies are also notified in Employment Exchange. For appointment of Security Guard, armed licence is required, such procedure was not followed in case of workman. IInd party reiterated that workman was not its employee, he was employee of M/S Tornado Enterprises. Bank obtained judgment and decree from the Court of District Judge against M/S Tornado Enterprises. The said owner of unit handed over the possession of the unit to the Bank and after obtaining permission from the Competent Executing Court, said unit was sold to M/S Frontier Motors and possession was given to them on 3-8-99. Ist party workman as watchman mostly may be entitled to received compensation amount payable under Section 25 FF of I.D.Act from M/S Tornado enterprises. That Ist party workman was working in M/S Tornado Enterprises prior to handing over it to the Bank by owner of the unit. Any small scale industrial unit was given security by its owner till the same was sold. Reiterating above contentions, IInd party submits that workman was not its employee. There is no employer employee relationship. There was no question of issuing notice or payment of retrenchment compensation.

4. It is further submitted that M/S Frontier Motors did not continue services of workman. He was disengaged from service. IInd party could not be held responsible for it. That Branch Manager is not empowered to appoint watchman, security guard or armed guard. The post of security guard is a trust post and they are appointed strictly by adopting recruitment rules. It is denied that workman was working more than 30 years and arbitrarily his services were terminated by IInd party. On such ground, IInd party prays for rejection of claim.

5. Ist party workman submitted rejoinder at Page 6/1 to 6/6 reiterating its contentions in statement of claim. Workman died during pendency of reference and LR's are brought on record.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |   |                     |
|---|---------------------|
| (i) Whether the action of the management of Union Bank of India, Regional Office, Jabalpur (MP) in denying regularization and terminating the services of Shri Abdul Rasid S/o Late Abdul Hamid w.e.f. 9-8-99 is legal and justified? | In Negative         |
| (ii) If not, what relief the workman is entitled to?"   | As per final order. |

### REASONS

7. The terms of reference relates to denying regularisation of Ist party workman and legality of termination of his service from 9-8-99. IInd party had denied appointment of workman. The employer employee relationship is denied. It is contented that workman was employee of M/S Tornado Enterprises. The Bank had advanced loan to it and as loan was not repaid, the properties of M/S Tornado Enterprises were sold.

8. Workman filed affidavit of his evidence supporting contentions in statement of claim. However before his cross-examination, he died. The LR's of workman are brought on record. Roshan Ara, widow of deceased workman filed affidavit of her evidence. She has stated that her husband was working as watchman with the Bank from 1986. He was paid Rs. 500/- per month. His services were discontinued on 8-8-99. Her husband was working 12 hours a day. Her husband was educated upto 11th standard. He was holding qualification for appointment as watchman. Her affidavit is also devoted about loan taken by Tornado Enterprises and civil suit filed by Bank. The unit was closed, loan amount was not paid. Applications were submitted for regular appointment. In her cross-examination, widow of deceased workman says she had visited Milouniganj Bank of the branch with her husband. Her husband was not working in Tornado Enterprises. Her husband was engaged by Bank. Appointment order was not given to him. She denied that her husband was working as watchman with M/S Tornado Enterprises.

9. Management's witness Arun Kumar Bhole filed affidavit of his evidence supporting contentions in Written Statement of IInd party denying workman was engaged by the Bank as Security Guard. His evidence is devoted about eligibility, qualification for appointment of security guards. Names are called from Employment Exchange etc.

workman was not appointed by the bank. He was employee of M/S Tornado Enterprises. Said unit had failed to repay loan taken from Bank, unit was sold. Workman was not holding gun licence. He was not eligible for appointment as security guard. Management's witness in his cross-examination says from August 2012, he is working as Chief Manager at Jabalpur. He admits Exhibit W-5. No document is produced to show that deceased workman was working in M/S Tornado Enterprises. Document referred in his affidavit is not produced. The rules about appointment of watchman are not produced. He claims ignorance about application submitted by workman for regularization of his service. The documents produced by workman are admitted. Exhibit W-1,2 letter dated 29-5-86 find clear reference that two watchman worked t unit of M/S Tornado Enterprises. W-3 finds that two watchman were appointed by Bank. Antisocial element had tried to commit theft in the unit. The report was submitted to police requesting to take action. The evidence of widow of workman is supported by those documents. No documents are produced by management's witness regarding appointment of workman by M/S Tornado enterprises, the workman was paid by said unit from 1986. The evidence clearly shows that workman was working in industrial unit of M/S Tornado enterprises taken over by the Bank for recovery of loan. The unit was sold in 1999. Workman was terminated without notice, retrenchment compensation was not paid to him therefore termination of service of deceased workman is in violation of Section 25-F of I.D.Act. For above reasons, I record my finding in Point No.1 in Negative.

10. The documents produced by workman are admitted. In Exhibit W-1 there is clear reference that unit of M/S Tornado Enterprises was taken over by the Bank. Two watchman were working in said unit. The letter was addressed to Asstt. Engineer, Public Health Criminal Sub Division. In W-2 admitted by IInd party, there is clear reference that two watchman were appointed at unit of Tornado Enterprises and antisocial elements have broken locks admitted to commit theft of property. In W-3, reference is found that two watchman were appointed by Bank in the unit of M/S Tornado Enterprises attempt to commit theft was made. Those documents are dated 29-05-86, 5-5-95, 26-8-95 clearly shows that watchman were working in unit of M/S Tornado Enterprises. In W-3, it is clearly mentioned that those watchman were appointed by the Bank. Vide application Exhibit W-5, W-6 workman had requested for his regularization. Exhibit W-8 workman issued notice through the counsel. The evidence of workman is supported by Exhibit W-1 to W-3. The management's witness in his cross-examination says that he has not produced documents about recruitment policy. Evidence of management's witness is not corroborated by documents. On the other hand, copies of judgments in Civil Suit No. 430-A/94 shows that said suit was filed by

Bank for recovery of Rs. 24,69,699.90 against M/S Tornado Enterprises. Said suit was decreed exparte. Bank was permitted to sale property of M/S Tornado Enterprises. The permission was granted by Court. However the documents relating to sale of property to Tornado Enterprises on record rather the property was sold in 1999. IInd party has not produced documents about taking over property of M/S Tornado enterprises and its conditions. No evidence is adduced that workman was appointed by M/S Tornado Enterprises and its salary from 1989 till August 1999 was aid by Tornado Enterprises. Thus it is clear that the evidence of workman is corroborated by documentary evidence that he was appointed as watchman by IInd party and paid Rs. 500/- per month. His services are terminated without notice, no retrenchment compensation is paid to him. Therefore I record my finding in Point No.1 in Negative.

11. **Point No.2-** As per my finding on Point No.1, services of workman are terminated without notice in violation of Section 25-F. Workman was working from 1986 to 1999 for about 13 years. Considering the wages paid to workman, he was not appointed following recruitment rules, reinstatement of workman would not be justified. Reasonable compensation would be justified. In my considered view, workman was paid Rs. 500/- per month. He worked for about 13 years, compensation Rs. One Lakh would be reasonable. Accordingly I record my finding in Point No.2.

12. In the result, award is passed as under:-

- (1) The action of the management of Union Bank of India, Regional Office, Jabalpur (MP) in denying to regularize and in terminating the services of Shri Abdul Rasid S/o Late Abdul Hamid w.e.f. 9-8-99 is not legal.
- (2) IInd party is directed to pay compensation Rs. One Lakh to the LR's of workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 357.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 234/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/64/99-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th February, 2015

**S.O. 357.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 234/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of UCO Bank and their workmen, received by the Central Government on 19/02/2015.

[No. L-12012/64/99-IR(B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/234/99

Shri Sive Singh Yadav,  
Qr. No. 28, SAF Colony,  
Double Storey, Opp. Post Office,  
Army Bazar Kampoo,  
Lashkar,  
Gwalior

...Workman

#### Versus

The Asstt. General Manager,  
UCO Bank, Zonal office,  
E-5, Arera Colony,  
Bhopal

...Management

#### AWARD

Passed on this 12th day of November, 2014

1. As per letter dated 18-6-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-12012/64/99-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Asstt. General Manager, UCO Bank in terminating the services of Shri Shiv singh Yadav w.e.f. 15-10-98 is justified? If not, what relief the workman is entitled for?”

2. After receiving reference, notices were issued to parties. Workman submitted statement of claim at Page 2/ 1 to 2/3. Case of Ist party workman is that he was appointed as peon from 25th April 96 at Extension Counter SAF attached to UCO Bank, Nayabazar branch on daily basis. He was continuously working on said post till 14-10-98. He further submits that he was paid wages Rs. 20,25,30,35 per day. The wages as per rules comes Rs.90/- per day were not paid to him. He had requested many times for payment of wages as per rules. the officers of IInd party were annoyed and terminated his services from 15-10-98. Workman raised dispute.

3. Ist party workman further submits that he had completed 240 days continuous service during 12 preceding months before termination of his services. His services are terminated without notice, retrenchment compensation was not paid to him. On such ground, workman prays for his reinstatement with back wages.

4. IInd party management filed Written Statement at page 7/1 to 7/4. IInd party raised preliminary objection that reference is not tenable as Ist party was never employed by the Bank. Workman was engaged on daily wages, the procedure for recruitment was not followed while engaging workman on daily wages. He was not appointed against vacant post. Workman was doing work of casual nature. The wages were paid at market rate. There is no employer-employee relationship. Ist party is not covered as workman. His engagement came to end at end of day. His discontinuation doesnot amount to retrenchment.

5. IInd party further submits that Ist party workman was not continuously working. He has not completed 240 days continuous service. The allegation with respect to nonpayment of wages as per rules has been denied. IInd party reiterates that engagement of workman was of casual nature. Workman was not under control and supervision of Bank. On such grounds, IInd party prays for rejection of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |   |                     |
|---|---------------------|
| (i) Whether the action of the management of Asstt. General Manager, UCO Bank in terminating the services of Shri Shiv Singh Yadav w.e.f. 15-10-98 is justified? | In Negative         |
| (ii) If not, what relief the workman is entitled to?"   | As per final order. |

#### REASONS

7. Workman is challenging termination of his service for violation of section 25-F of I.D.Act, his services were terminated without notice, retrenchment compensation was not paid to him though he had completed more than 240 days continuous service preceding his termination. Above contentions of workman are denied by the management. It is denied that workman had completed 240 days continuous service preceding 12 months of his termination. Employer employee relationship is also denied. Workman was engaged casually.

8. Workman filed affidavit of his evidence supporting his contentions in statement of claim that he was continuously working from 25-4-96 to 14-10-98. Then Branch manager orally terminated his services from 15-10-98. He was not served with notice. Retrenchment

compensation was not paid to him. List of retrenched employee was not displayed on notice board. Reason for termination was not informed. In his cross-examination, workman says that he had not received appointment letter. He was appointed in place of Harcharan Singh therefore he believed his appointment was regular. He was not told period of his appointment. He was continuously working. From re-examination of workman, documents Exhibit W-1, W-2(1) to (27) vouchers are proved. In his further cross-examination, workman says he had passed 8th standard. Work of peon/sweeper was taken from him. He was paid Rs.30/- per day. Other persons engaged in the Bank were paid Rs.90/- per day. That he was doing all kinds of work in the branch.

9. Management's witness Shri Ramdin Verma supported contentions of management in Written Statement. That workman had not completed 240 days continuous service preceding his disengagement. Workman was engaged on daily wages. He was not terminated. That old records about payment of contingency expenses, vouchers are not in possession of the Bank. The Bank has no record about engagement of workman. He was never appointed against regular vacant post as per recruitment rules. Any attendance register, muster roll was not maintained. Said witness was not produced for cross-examination.

10. Rather affidavit of evidence of Shri R.K. Misuriya is filed on same lines. Documents Exhibit M-1 to M-4 are proved from his evidence. Those documents are relating to recruitment policy. Management's witness in his cross-examination says during 25-4-96 to 15-10-98, he was posted at Gwalior. That from 1-1-98, he was transferred to Ujjain. He was never posted at extension branch Nayabazar, SAF extension counter. He claims ignorance where workman was engaged. That he is giving evidence as per documents. That workman was working for 1-2 hours a day but documents in that regard are not available. Said information was received by him from other staff members. Wages were paid under vouchers, its record are not available in the Bank. After internal audit, vouchers used to be destroyed. Management's witness denies that after discontinuation of workman, other persons were engaged in his place. That regular peon was already working any post is not vacant. Workman was not paid retrenchment compensation. Termination notice was not given to him.

11. Learned counsel for IInd party Shri Bhattacharya submits that workman has not proved 240 days continuous service, even if vouchers 2/1 to 2/27 are accepted. The chart of working days as per the vouchers is submitted by workman claiming that from November 1997 to October 1998, workman had worked for 278 days. Even I calculated the working days shown in the chart. The working days from 17-11-97 to October 98 comes more than 240 days. Thus evidence of workman is supported by documentary evidence Exhibit 2/1 to 2/27- payment vouchers. Workman



was not served with notice. He was not paid retrenchment compensation.

12. Learned counsel for IInd party Shri Bhattacharya emphasized that workman has not completed 240 days continuous service. In support of argument, reliance is placed on ratio held in various cases-

Range Forest Officers Vs. S.T.Hadimani reported in 2002-SCC(L&S) 367, their Lordship dealing with ownus and manner of proof held it was for the claimant to lead evidence. Case of Karur Vysys Bank Employees Union Versus Presiding Officer CGIT and another reported in 1988 LAB.I.C.1746, their Lordship held failure of employee to prove that he worked for 240 continuous days in a year provision of Section 25-F not attracted. In case of Surendranagar District Panchayat versus Dahyabhai Amarsingh reported in 2006-SCC9 L&S) 38, their Lordship held facts that must be proved by workman to claim protection under Section 25-F burden of proof lies on workman.

In present case evidence of workman is corroborated by document Exhibit 2/1 to 2/27. The evidence is clear about completion of 240 days continuous service therefore ratio held in all above cited cases cannot be beneficially applied to present case. Workman is terminated without issuing notice, retrenchment compensation is not paid to him, termination of services of workman is illegal. For above reasons, I record my finding in Point No.1 in Negative.

13. **Point No. 2-** In view of my finding in Point No.1, termination of service of workman is in violation of Section 25-F, as such question arises whether workman is entitled for reinstatement with back wages. The evidence on record shows workman worked for approximately 2 ½ years, he was not appointed following recruitment process.

14. Learned counsel for workman Shri Praveen Yadav submitted copy of award in Case R/87 to 91 of 2000. The facts in those cases were entirely different. The workmen in those cases were engaged on monthly pay with admissible DA, they were working from 91 to 99 for more than 7 years. Ist party workman was engaged on daily wages for about 2 ½ years therefore the award submitted by counsel for Ist party cannot be followed for any purpose.

15. Learned counsel for IInd party Shri Bhattacharjee submits that workman was not appointed following recruitment rules, he is not entitled for reinstatement/regularization.

Reliance is placed on award in R/157/01 and ratio held in case of Pankaj and others versus State of Jammu and Kashmir and others reported in 2004(9)SRJ103. The principles laid down are no

person illegally appointed or appointed without following procedure prescribed under law should be continued in service. Reliance is also placed in case of State of Secretary, State of Karnataka and others versus Umadevi (3) and others.

In present case, violation of Section 25-F of I.D.Act is established. However Ist party workman was engaged on daily wages without following recruitment policy Exhibit M-1 to M-4. Therefore reinstatement of workman would not be appropriate. Considering the working days and wages paid to workman in my considered view, compensation Rs. 75,000/- would be proper. Accordingly I record my finding in Point No.2.

16. In the result, award is passed as under:-

- (1) The action of the management of Asstt. General Manager, UCO Bank in terminating the services of Shri Shiv Singh Yadav w.e.f. 15-10-98 is not proper and legal.
- (2) IInd party is directed to pay compensation Rs. 75,000/- to workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 358.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 13/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/286/97-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th February, 2015

**S.O. 358.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 19/02/2015.

[No. L-12012/286/97-IR(B-II)]

RAVI KUMAR, Desk Officer

**ANNEXURE**  
**BEFORE THE CENTRAL GOVERNMENT**  
**INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,**  
**JABALPUR**

**NO. CGIT/LC/R/13/98**

Shri Santosh Kumar Sahu,  
 S/o Phoolchandra Sahu,  
 R/o Shakti Nagar,  
 Bareilly, Distt. Raichan (MP)

...Workman

**Versus**

Regional Manager,  
 Central Bank of India,  
 Regional Office, E-3/50, Arera Colony,  
 Bhopal

...Management

**AWARD**

Passed on this 12th day of January, 2015

1. As per letter dated 6-8/1/98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-12012/286/97-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Central Bank of India in terminating the services of Shri Santosh Kumar Sahu w.e.f. 1-9-96 is legal and justified? If not, to what relief the said workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 3/1 to 3/2. Case of workman is that he was appointed on post of peon at Bareilly branch, Distt. Raichan of IInd party on 1-1-1990. His appointment was not following the rules. He worked with devotion. He was orally terminated on 1-9-96 without assigning any reasons. That he was doing cleaning work from 8 AM and in the evening till the branch was closed. No charge sheet was issued to him. He was not given opportunity of hearing before termination of his service. He completed 240 days continuous service preceding 12 months of his termination. After termination of his service, IInd party engaged other persons who is still working. That termination of his service is illegal. On such ground workman prays for his reinstatement with back wages.

3. IInd party filed Written Statement at Page 5/1 to 5/4. IInd party submits that the dispute does not exist between parties. Workman was engaged from 1-1-1990 at Bareilly branch as peon, working for 78 days. Workman had not completed 240 days continuous service. It was not necessary to give reason for termination of workman. The engagement of workman was for specific period. It is denied that workman was doing cleaning work from 8 AM and evening till the branch was closed. IInd party submits

that workman was engaged on contract basis. After end of the period of engagement, his services automatically ended. Workman worked for 78 days in 1990, 9 days in 1991, 60 days in 1992, 31 days in 1993, 42 days in 1995 and 33 days in 1996 as peon and 40 days as sweeper. Provisions of Section 25-F of ID Act are not applicable. Workman is not eligible for appointment as regular peon. All adverse contentions of workman are denied. IInd party prays that reference be answered in its favour.

4. Workman filed rejoinder at Page 6/1 to 6/2 reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |                     |
|--|---------------------|
| (i) Whether the action of the management of Central Bank of India in terminating the services of Shri Santosh Kumar Sahu w.e.f. 1-9-96 is legal and justified? | In Negative         |
| (ii) If not, what relief the workman is entitled to?”  | As per final order. |

**REASONS**

6. Workman is challenging termination of his service for violation of Section 25-F of I.D. Act. Management of IInd party had denied all contentions of workman. Workman filed affidavit of his evidence. He has stated that he was appointed as peon on 1-1-90 in Bareilly branch, Distt. Raichan. After his interview, he worked with devotion. His services were orally terminated from 1-10-96 without giving any reasons. No charge sheet was issued to him, no enquiry was conducted against him. He was not paid retrenchment compensation. He completed 240 days continuous service. Retrenchment compensation was not paid to him. He was continuously working since his initial appointment. Notice of termination was not given to him. After termination of his service, IInd party engaged other persons. In his cross-examination, workman says appointment letter was not given to him. He denies that he was engaged for work as per exigencies. He was paid wages under vouchers at end of the month. He was paid wages for his working days. He was not signing muster roll. His signatures were obtained on some other small register in office of IInd party. He denies that he not completed 240 days continuous service. Termination order in writing was not given to him. Workman had submitted application for production of documents IInd party has not produced any documents.

7. Management filed affidavit of evidence of its witness Shri B.L. Shrawan but said witness was not produced for cross-examination therefore evidence of management's witness cannot be considered. I find no reason to disbelieve evidence of workman that he completed 240 days continuous service. Management failed to produce

documents called by workman filing application. Evidence of workman clearly shows that he was working as peon from 1-1-90 to 1-9-96 for more than 6 years. His services are terminated without notice, retrenchment compensation is not paid to him. Therefore termination of service of workman is in violation of Section 25-F of I.D.Act. For above reasons I record my finding in Point No.1 in Negative.

8. **Point No.2-** As per my finding on Point No,1, services of workman are terminated in violation of Section 25-F of I.D.Act, question arises whether workman should be allowed reinstatement with back wages. Workman in his cross-examination says he was not given appointment letter. His signatures were not taken on muster roll. He was signing on some other small register. Workman had not produced any document about his appointment was made after following selection process. Therefore the reinstatement of Ist party workman would not be justified.

9. Learned counsel for workman Shri Srivastava relies on ratio held in

Case of Deepali Gundu Surwase and Kranti Junior Adhyapak and others reported in 2013(139)FLR 541. The careful reading of above cited case shows that the employ was dismissed conducting enquiry. The case before their Lordship was not related to violation of Section 25-F of ID Act therefore the ratio cannot be applied to present case.

10. Learned counsel for workman Shri R.C.Srivastava also relies on ratio held in

Case of Director General Department of Sports and Youth Affairs, Haryana and another Vs. Naresh Pal and others reported in 2014(141)395. Divisional bench of Punjab and Haryana High Court considering non-compliance of Section 25-F workman completing 240 days service, termination without compliance of Section 25-F. the Labour Court ordered reinstatement with continuity of service with 50 % back wages was upheld.

The facts of present case are not comparable. In present case, the workman was paid wages under vouchers. He was not signing muster register, he was signing on small register in token of his attendance. Those facts cumulatively shows that workman was not regular employee and therefore ratio held in the case cannot be applied to present case. Considering length of service of workman, in my considered view, compensation Rs.1,50,000/- would be appropriate. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:-

(1) The action of the management of Central Bank of India in terminating the services of Shri Santosh Kumar Sahu w.e.f. 1-9-96 is not proper.

(2) IInd party is directed to pay compensation Rs. 1,50,000/- to the workman within 30 days from the date of publication of award.

In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 359.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 57/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12011/34/98-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th February, 2015

**S.O. 359.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 19/02/2015.

[No. L-12011/34/98-IR(B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/57/99**

General Secretary,  
Association of Punjab National  
Bank Employees Central Office,  
37, Bakshi Gali,  
Indore

...Workman/Union

#### Versus

Regional Manager,  
Punjab National Bank,  
Napier Town,  
In front of Home Science College,  
Wright Town, Jabalpu

...Management

#### AWARD

Passed on this 9th day of January, 2015

1. As per letter dated 13-1-99 by the Government of India, Ministry of Labour, New Delhi, the reference is

received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-12013/34/98-IR(B-II). The dispute under reference relates to:

“ Whether the action of the management of Punjab National Bank in appointing Ku. Madhu Sinha, Teller as Head Cashier Category “C” and not appointing Shri T.S.Bawa to that post is legal and justified? If not, to what relief the said workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/3. Workman submits that he joined Punjab National Bank at Shuivpuri branch as clerk on 4-9-81. On his request, he was transferred to Satna branch and joined said branch on 18-9-84. On 26-8-87, vacancy of Head Cashier Cat-C occurred in Satna Branch. As per promotion policy ad settlement, workman Bawa was eligible for promotion of Head cashier Cat-“C”. That employee working as Teller cannot be taken for the post of Head Cashier Cat “C” violating settled position. Miss Madhulata Sinha working as Teller was wrongly posted as Head Cashier Cat “C” on 26-8-87. That Bawa, workman used to be allowed to officiate as Head cashier Cat “C”. It is submitted that denial of workman to the post of Head cashier Cat “C” was confirmed by Regional Manager Jabalpur. Workman then taken matter with Regional Manager of the Bank vide representation dated 18-12-93, 28-12-93. His representations were not considered. It is reiterated that Miss Madhulata Sinha was working as Teller was illegally posted as Head Cashier Cat “C” at the relevant time, workman was working as Sr. most clerk-cum-cashier.

3. IInd party filed Written Statement at Page 7/1 to 7/7. Preliminary objection is raised by IInd party that workman is not member of the Association. Union was not authorized to raise dispute. General secretary of Union is not competent to raise dispute on behalf of Union. The dispute raised by workman suffers from delay and latches. It is submitted that Bawa joined as clerk-cum-cashier at Satna branch on 18-9-84 on transfer. Vacancy of Head cashier Cat “C” arose in Satna branch on 26-8-87. That Miss Madhulata Sinha was senior most in the branch. Workman was allowed designation of Teller in place of Miss Madhulata Sinha. She was posted as Head cashier Cat “C”. The post of Teller become vacant. During absence of Miss Madhulata Sinha, workman used to officiate post of Head Cashier Cat “C”. From 1-1-1993, he was not allowed to officiate the post of Head Cashier Cat “C” as it came to the knowledge of Regional Office that Tellers are not eligible for officiating post of Head Cashier Cat “C”. it is reiterated that in 1993, when post of Head Cashier Cat “C” fell vacant, workman was working as Teller therefore he could not be appointed on said post. It is submitted that Shri Sinha was wrongly given promotion. She was designated as Teller at that time.

4. That service conditions of Bank employees are covered by awards, bipartite settlement, Chapter V deals with special allowance related matters applicable to staff. It is further submitted that the Bank had signed settlement dated 16-6-73 with employees federation. The Head Cashier in branch office controlling strength 2,3,4, cashier in cash section shall be paid allowance of Head Cashier Cat “C” on basis of seniority in town as unit. That employees working as Teller are excluded for posting as Head Cashier Cat “C” as per settlement dated 30-9-82. It is further submitted that Ist party workman Bawa joined Bank as cashier-cum-clerk in Shivpuri on 4-7-81. That the vacancy of Head cashier Cat C also occurred on 24-12-93. At that time, Bawa was working as Teller. He was not eligible for the post of Head Cashier Cat “C”. The claim of Ist party workman for post of Head Cashier Cat “C” from 24-12-93 is denied. IInd party prays that Union raised dispute to cause harassment to the management by misusing legal process. On such grounds IInd party prays that reference be answered in its favour.

5. Workman submitted rejoinder at Page 10/1 to 10/6 reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |   |                     |
|---|---------------------|
| (i) Whether the action of the management of Punjab National Bank in appointing Ku. Madhu Sinha, Teller as Head Cashier Category “C” and not appointing Shri T.S.Bawa to that post is legal and justified? | In Negative         |
| (ii) If not, what relief the workman is entitled to?”   | As per final order. |

### REASONS

7. Workman raised dispute regarding denial of post of Head Cashier Category “C” to him and posting Miss Madulata as Head Cashieir Cat “C” from 26-8-87. Ist party workman also relies on policy that Teller cannot be posted as Head cashier Cat “C”. Miss Madhulata was working as Teller when she was posted as Head Cashier Cat “C”. management did not dispute that employee working as Teller cannot be posted as Head cashier Cat “C”. Management had committed wrong while posting Miss Madhulata as Head Cashier Cat “C”.

8. Workman filed affidavit of his evidence supporting his claim. That he joined Satna Branch on 18-9-84. The post of Head Cashier Cat “C” fell vacant at Satna branch. As sr. most clerk covered cashier, he should have been posted on said post as per Circular No. 672/82. However Miss Madhulata was working as Teller was posted from 16-8-87. When again post of Head Cashier Cat-C fell vacant on 24-12-93, he was not posted. He was victimized, he was



subjected to mental harassment by the management. In his cross-examination, Ist party workman says that he was transferred to Satna Branch. The post of Head Cashier Cat-C carries extra allowance. Miss Madhulata was posted on said post from 1987. When she was on leave, he was officiating said post. That he was posted as Teller from 1987. He was working as CTO equivalent to Teller. As per settlement, posts were absorbed and Teller was converted to CTO. He did not recollect date of settlement. Workman claims ignorance of settlement dated 30-9-82.

9. Witness No.2 Baldev Prasad Union President in his affidavit of evidence has stated that he is working President of the Union and Union raised dispute as per instructions received from Central Office. In his cross-examination, he says original resolution is not produced. No documents are supported by him. that he is office bearer of the Union. The document on record Page 12/6 is letter given by General secretary about office bearer of the Union, name of witness is appearing as Working President. Workman himself as participated in reference proceeding. He has filed affidavit of his evidence therefore management's objection to the reference cannot be accepted.

10. Management's witness Shri Jagannath Simhachalam in his affidavit says Bawa joined Satna branch on 18-9-84, vacancy of Head cashier arose on 26-8-87. Miss Madhulata Sinha due to her posting as Head Cashier, Cat-C, vacancy of Teller arose, it is clear from his evidence in cross-examination that circular dated 26-3-81 employee working as Teller cannot be posted as Head Cashier Cat "C". his further cross-examination shows town seniority is considered for promotion to Head Cashier Cat "C". Head Cashier Cat C is selected excluding employee working as Teller. The circular is produced at Exhibit W-R. Miss Madhulata was having designation of Teller when she was posted as Head Clerk-cum-Cashier Cat "C". he further admits that Miss Madhulata working as Teller who have been excluded for promotion to the post of Head Cashier cat C. the evidence of management's witness itself gives blow to the case of management that Madhulata was working as Teller when she was posted as Head Cashier Cat "C". The Circular Exhibit W-1 clearly excludes Tellers for posting to the post of Head Cashier Cat "C". Madhulata was illegally promoted to said post and the workman was denied said post in violation of the circular.

11. Therefore at time subsequent vacancy in 1993, workman was working as Teller. It was the reason he was not posted as Head Cashier Cat "C". In 1987, he was discriminated and Miss Madhulata was promoted to said post discriminating the workman. in 1993, management denied said post to the workman pointing out exclusion of Teller for promotion to the post of Head Cashier Cat "C". his discrimination started at the time of first denial of promotion in 1987 and it was perpetuated in 1993 again. During course of argument Shri A.K. Shashi was fair in

submissions that as per circular dated 30-9-82, Madhulata was wrongly given posting of Head Cashier Cat "C". When she was working on allowance carrying post of Teller, she was not entitled to post of cashier. However wrong action was committed by management, it could not be perpetuated in 1993 when post again fell vacant. The argument advanced cannot be accepted wholly as wrong committed by management while posting Madhulata as Head cashier Cat C in 1987, workman was illegally discriminated. The initial illegalities cannot be a ground for denying relief claimed by workman.

12. Shri A.K.Shashi, Advocate relies on ratio held in "Case of Nedungadi Bank Ltd versus K.P.Madhavankutty reported in AIR 2000 SC 839. The facts of the case before their Lordship were different. Employees dismissed from service after enquiry, remedy of appeal availed by them unsuccessfully after 7 years, the employees complaining of discrimination on ground that two other dismissed employees were reinstated by Bank.

In present case, workman was denied promotion to the post of Head Cashier Cat C in 1987 and he continued to submit representations even after the post fell vacant in 1993, therefore the ratio cannot be applied to the present case.

Next reliance is placed on ratio held in case of Post Master General, Kolkata and others versus Tutu Das reported in 2007(5) SCC 317. The ratio held in the case relates to illegal grant of regularization to similarly situated person doesnot create entitlement to regularization.

The ratio cannot be applied to present case as facts are not comparable.

13. Considering the evidence discussed above and circular Exhibit W-1, Miss Madhulata was promoted to the post of Head Cashier Cat C discriminating the workman. The action of the management cannot be said proper and legal. For above reasons, I record my finding in Point No.1 in Negative.

14. **Point No.2-** In view of my finding in Point No.1, Ist party workman was discriminated. The illegality started in 1987, consequently workman was posted as Teller and subsequently working as DTO. Discrimination against workman cannot be sustained. Workman deserves posting as Head Cashier Cat "C". However as workman was not actually working, benefit of difference of allowance cannot be allowed. Accordingly I record my finding on Point No.2.

15 In the result, award is passed as under:-

(1) The action of the management of Punjab National Bank in appointing Ku. Madhu Sinha, Teller as Head Cashier Category "C" and not appointing Shri T.S.Bawa to that post is not legal and proper.

- (2) IInd party is directed to give deemed posting of Head Cashier Cat-"C" to workman from 26-8-87, the date from which Miss Madhulata Sinha was posted as Head cashier. Difference be paid to workman within 30 days of publication of award.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 360.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 52/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/14/2004-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th February, 2015

**S.O. 360.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 52/04) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 19/02/2015.

[No. L-12012/14/2004-IR(B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/52/04**

Shri Asharam Prajapati,  
S/o Kishan Prajapati,  
Vill Harakheda, Tehsil Berasia,  
Bhopal

...Workman

#### Versus

Regional Manager,  
Central Bank of India,  
Regional Office, Arera Hills,  
Jail Road, Bhopal

...Management

#### AWARD

Passed on this 20th day of January 2015

1. As per letter dated 31-5-04 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under

Section -10 of I.D. Act, 1947 as per Notification No.L-12012/14/2004-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Regional Manager, Central Bank of India, Regional Office, Bhopal in terminating the services of shri Asharam Prajapati S/o Shri Kishan Prajapati w.e.f. 11-4-2001 is justified? If not, what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 3/1 to 3/4. Case of workman is that he was regularly working with IInd party from December 97. He was paid Rs. 3548.60 per month inclusive of DA, Basic Pay, HRA, CCA allowance. He was working till 11-4-01. His services were abruptly dispensed because of arbitrary decision taken by the management of Central Bank. He submits that he is qualified for post of peon. Despite there was vacancy of sanctioned post of peon in the Bank. His services were discontinued. That he worked more than 280 days in a year. His service record was unblemished. Termination of his service is in violation of Section 25-F of ID Act. Workman was illegally retrenched without complying provisions of ID Act. Workman submits that he is unemployed after termination from service. He claims reinstatement with back wages.

3. IInd party filed Written Statement at Page 7/1 to 7/8. IInd party submits that workman was very appointed as peon in the Bank. There is no employer employee relationship between parties. The claim of workman is vague and it deserves to be rejected. It is denied that workman was peon on daily wages from Dec-97 to 11-4-01. It is denied that workman was paid monthly salary of Rs.3548.60. it is denied that sanctioned post was lying vacant in shahapura branch. Workman was not appointed as peon. There was no question of termination of his service. Workman was engaged as casual labour in Bank. His services were of casual nature as and when required. The working days are shown in Para-18 of the Written Statement. Workman had worked total 175 days from 1997 to 2001. He had not completed 240 days service. The contentions in statement of claim are wrong. IInd party prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the management of Regional Manager, Central Bank of India, Regional Office, Bhopal in terminating the services of shri Asharam Prajapati S/o Shri Kishan Prajapati w.e.f. 11-4-2001 is justified? In Affirmative

(ii) If not, what relief the workman is entitled to?"

Workman is not entitled to any relief.

नई दिल्ली, 19 फरवरी, 2015

### REASONS

5. Workman is challenging termination of his service for violation of of Section 25-F of ID.Act. IInd party denied regular appointment on sanctioned post of the workman it is case of IInd party that workman was engaged on casual basis as and when required. Workman filed affidavit of his evidence. He has stated that he was continuously working with IInd party from Dec-97 to 11-4-01. He was paid monthly salary Rs.3548.60. he was orally discontinued from service in violation of provisions of ID Act. In his cross-examination workman says he studied 8th standard. He submitted his affidavit in Hindi was prepared by his Advocate. He had not appeared in any examination for his appointment, his name was enrolled in employment exchange office but his name was not send to Employment Exchange. Workman re-affirms that he was paid monthly salary. Appointment letter was not given to him. Workman admits that he was engaged by management on contract basis. He did not recollect who had got him employed in the Bank. He denies that he worked only for 175 days in the Bank.

6. Management's witness Shri A.K.Jain filed affidavit of his evidence on the basis of documents seen by him. He has denied that workman was engaged as peon from Dec-97 to 11-4-01. The payment of monthly salary Rs. 3548.60 is also denied. As per record, workman had worked for total 175 days. Workman was working for 1-2 hours in a day. Workman was not employed following selection process. In his cross-examination, management's witness says he was not posted in the Shahpur branch during Dec-97 to 11-4-01. It is denied that workman was working in said branch during above said period. He claims ignorance whether workman was paid Rs.3548.60 per month. He filed affidavit of his evidence on the basis of documents. Management's witness denies documents shown in his cross-examination. The evidence of workman and management's witness is on oath. Workman has not produced any documents, any co-employee is not examined. The onus lies on workman to prove 240 days continuous service during Dec-97 to 11-4-01. The evidence of workman is not supported by documents or evidence of co-employ is not sufficient to prove his claim. Therefore I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

- (1) The action of the management of Regional Manager, Central Bank of India, Regional Office, Bhopal in terminating the services of Shri Asharam Prajapati S/o shri Kishan Prajapati w.e.f. 11-4-2001 is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

**का.आ. 361.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार देना बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 14/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[ सं. एल-12011/103/2009-आईआर (बी-II) ]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th February, 2015

**S.O. 361.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Dena Bank and their workmen, received by the Central Government on 19/02/2015.

[No. L-12011/103/2009-IR(B-II)]

RAVI KUMAR, Desk Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/14/2010

The Vice President,  
Bank Employees Federation Chhattisgarh (BEFI),  
Central office, C/o Dena Bank,  
Gudhiari Branch,  
Raipur

...Workman/Union

#### Versus

The CMD,  
Dena Bank Head Office,  
Dena Corporate Centre,  
C-10, S-Block, Bandra Kurla Complex,  
Bandra East,  
Mumbai

...Management

### AWARD

Passed on this 5th day of January 2015

1. As per letter dated 15-1-2010 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/103/2009/IR(B-II). The dispute under reference relates to:

“ Whether the action of the management of Dena Bank in punishing Shri Brij Mohan Chaudhary, Dena Bank Durg Branch with punishment of stoppage of one increment with cumulative effect vide order No.

RA.KSHE.KA/KARMIK/864 dated 25-8-03 of AGM and Disciplinary Authority Den Bank is justified. whether the action of the management in not giving the post of clerk on the plea of his misconduct and punishment imposed is justified. What relief he is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party filed statement of claim. He is proceeded exparte on 5-9-12.

3. IInd party filed exparte Written Statement. It is submitted by IInd party that dispute raised by workman relates to stoppage of one increment with cumulative effect vide order dated 25-8-03. That workman was given opportunity of filing statement of claim but he has failed to submit his statement of claim. That workman is in habit of disobeying orders of his seniors. Chargesheet was issued to him on 10-3-00. That he committed in-disciplined act disobeying orders of his officers, damaging image of Bank and habitually committing such acts. Reply by workman was not found satisfactory. Shri R.B.Sharma was appointed as Enquiry Officer and this was informed to Shri Brij Mohan Choudhary vide order dated 15-2-02. Shri S.K.Saniyal was engaged as Defence Representative enquiry was conducted on various dates. Details given in Para-6 of the Written Statement. Enquiry Officer submitted his report on 2-1-2013 holding workman guilty of charges. Report was sent to workman. he submitted representation on 18-2-03. Workman was granted personal hearing. Punishment of stopping one increment was imposed. Appeal preferred by workman was rejected. That workman had appeared for promotion from subordinate cadre to clerical cadre on 10-3-02. Workman passed in promotion test. His result was kept in abeyance till enquiry was completed and punishment imposed vide memo dated 28-8-03 for his act of gross misconduct committed and charges framed against him. Accordingly promotion of workman stands cancelled vide order dated 17-7-02. Punishment is imposed as charges against workman are proved in Enquiry Proceedings.

4. The points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |   |  |
|---|--|
| (i) whether the action of the management of Dena Bank in stopping of one increment with cumulative effect vide order dated 25-8-03 in not giving the post of clerk on the plea of his misconduct and punishment imposed is justified? | In Affirmative                         |
| (ii) If not, what relief the workman is entitled to?"   | Workman is not entitled to any relief. |

## REASONS

5. Despite of notices issued to workman, he failed to submit his statement of claim. Workman has proceeded exparte on 5-9-2012. Management filed affidavit of witness Shri Ashok Kumar Verma giving details of enquiry conducted against workman. the evidence of management's witness is unchallenged. I find no reason to disbelieve his evidence. The record of Enquiry Proceedings is produced at Exhibit M-1 to M-17. Workman has failed to participate in reference proceeding. Therefore his contentions cannot be accepted. For above reasons, I record my finding in Point No.1 in Affirmative.

6. In the result, award is passed as under:-

- (1) The action of the management of Dena Bank in stopping of one increment with cumulative effect vide order dated 25-8-03 in not giving the post of clerk on the plea of his misconduct and punishment imposed is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 362.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 157/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12011/166/2000-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th February, 2015

**S.O. 362.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 157/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 19/02/2015.

[No. L-12011/166/2000-IR(B-II)]

RAVI KUMAR, Desk Officer

## ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/157/2000**



General Secretary,  
Daily Wages Bank Employees Association,  
Hardev Niwas, 9, Sanwer Road,  
Ujjain ...Workman/Union

### Versus

Manager,  
Central Bank of India,  
Regional Office,  
6/3, Race Course Road,  
Indore ...Management

### AWARD

Passed on this 18th day of November, 2014

1. As per letter dated 22-8-00 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-12011/166/2000/IR(B-II). The dispute under reference relates to:

“ Whether the action of the management of Central Bank of India in terminating Shri Mukesh Kalsekar w.e.f. 17-3-99 and denied to regularize his services is legal and justified? If not, what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party submitted statement of claim at Page 4/1 to 4/4. Case of workman is that he was engaged as peon by IInd party from 29-9-85. He worked with devotion. He was called by management in his cabin and told that there should not be record of his working more than 60 days in a year. That he had worked for 60 days, in future whenever appointments are made for permanent post, he will be called. That he was again called through peon on 26-4-87. Workman worked for 60 days from 27-4-87 to 25-1-88. During 1985-86 & 87-88, he worked 70 days, 60 days with IInd party. In 1991, he was engaged for 60 days as peon. On 14-3-93, he was called for test conducted for appointment of permanent post. He was interviewed on 12-7-93. His name was included at Sl. No. 6 in the panel list. Workman has given details of his working days on pay scale and daily wages in para-14 of his statement of claim.

3. Workman submits that sometimes he was paid wages Rs.45/-, 60/-. He was not paid bonus under Section-8 of Payment of Bonus Act.

4. Workman further submits after his name was included in Waiting List, he was engaged time to time for 16-60 days. He was paid wages Rs. 45-60. On 28-8-87, he has submitted representation to ALC, Bhopal for payment of bonus amount. During conciliation proceedings, IInd party submitted that the waiting list have been deemed alive. The certificate of 290 days working was submitted by workman. He has also offered not to claim back wages if he reinstated in service. Workman submits that he

completed 240 days continuous service till period 20-8-87 to 17-3-99. On such ground, workman prays for appointment of permanent post, reinstatement with back wages, recovery of bonus from IInd party.

5. For appointment on permanent post and recovery of bonus is beyond the terms of reference. The terms of reference relates only to legality of his termination.

6. IInd party submitted Written Statement at Page 7/1 to 7/3. IInd party has denied workman was working for 60 days intermittently a pleaded. Workman was engaged only on daily wages. It is denied that workman had completed 240 days continuous service alleged by workman. It is denied that workman had completed 299 days working during 97-98. Workman is not entitled to bonus. On such ground, IInd party prays for rejection of claim.

7. Workman filed rejoinder at page 8/1 to 8/3 reiterating its contentions in statement of claim.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |                     |
|--|---------------------|
| (i) “Whether the action of the management of Central Bank of India in terminating Shri Mukesh Kalsekar w.e.f. 17-3-99 and denied to regularize his services is legal and justified?” | In Negative         |
| (ii) If so, to what relief the workman is entitled to?”  | As per final order. |

### REASONS

9. Terms of reference relates to legality of termination of workman and denying regularization. Workman filed affidavit of his evidence. Workman has stated that he worked for 60 days each in 85, 86 & . he was called for written test on 14-3-93. He was interviewed on 12-7-93, his name was included in panel at Sl. No.6. he was continuously working more than 240 days during 20-8-97 to 18-3-99. Management remained absent and failed to cross-examine workman. His evidence remained unchallenged. Management failed to adduce any evidence. Workman has produced certified copies of order sheet in R/27/04, certified copy of Exhibit W-1 in R/11/04. Certified copies of Exhibit W-2 to W-5 in R/11/04. Exhibit W-2 shows marks allotted for test. Exhibit W-1 shows eligibility of part time employees working 90 days during 1982 to 1990. Certified copy of Exhibit w-4 shows name of Ist party workman appearing at Sl. No. 6. The evidence of workman is corroborated by those documents. Certified copies of conciliation proceedings in R/11/04 is also produced. Considering unchallenged evidence of workman and failure of IInd party to adduce evidence, I donot find reason to discard evidence of workman. After name of workman was

included in select list at Sl.No.6, management has advised why the workman was not given permanent appointment. The reasons for termination of workman are not disclosed. Workman has completed 240 days continuous service during 20-8-97 to 18-3-99. His services are terminated without notice, retrenchment compensation is also not paid to him. Said act of the management of IInd party is in violation of Section 25-F of I.D.Act. For above reasons, I record my finding in Point No.1 in Negative.

10. **Point No.2-** The termination of services of workman is in violation of Section 25-F of I.D.Act. In view of my finding on Point No.1, name of workman was included in panel list at Sl. No.6. workman was entitled for permanent appointment as per bipartite settlement. Instead of regularizing his services, IInd party had terminated service of workman without notice, no retrenchment compensation is paid to him. Evidence of workman is silent what he is doing after termination of his service, how he is maintaining his family. Management has also not participated in the reference. No evidence is adduced by management on the point of gainful employment of workman. Workman cannot be allowed to take advantage of backwages. Only reinstatement of workman would be appropriate. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:-

- (1) The action of the management of Central Bank of India in terminating Shri Mukesh Kalsekar w.e.f. 17-3-99 and denied to regularize his services is not legal and proper.
- (2) IInd party is directed to reinstate workman with continuity of service in terms of settlement dated 24-12-90. However workman would not be entitled to back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 363.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार देना बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 247/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/399/89-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th February, 2015

**S.O. 363.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 247/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the

Industrial Dispute between the management of Dena Bank and their workmen, received by the Central Government on 19/02/2015.

[No. L-12012/399/89-IR(B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/247/97

Vice President,  
M.P. Bank Employees Association Union,  
C/o State Bank of Indore Branch  
T.T. Nagar,  
Bhopal ... Workman

#### Versus

Regional Manager,  
Dena Bank, Regional Office,  
Kukreja Bhawan, 107,  
Barsaia Road,  
Bhopal ... Management

#### AWARD

Passed on this 26th day of November, 2014

1. As per letter dated 10-2-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-12012/399/89/IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Dena Bank in debarring Shri S.K. Gaur to appear in promotion test and stoppage of two increment with cumulative effect and one increment with non-cumulative effect is legal and justified? If not, to what relief the said workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 6/1 to 6/13. Terms of reference relates to legality of punishment – stoppage of two increments with cumulative effect and one increment without cumulative effect. The punishments were imposed holding enquiry on 3 chargesheets issued to workman dated 21-12-82, 20-9-85 and 11-10-85. Applicant's case is he was selected and appointed as cashier cum clerk in IInd party No.2 in June 1978. His services are covered by Bipartite settlements. On 21-12-1982, chargesheet was issued to him while he was working as cashier incharge temporarily at T.T. Nagar, Bhopal. Filing reply to chargesheet, he denied allegations against him. Shri Vijay was appointed as Enquiry Officer. He submitted findings that charges were proved without proper reasons. On report of Enquiry Officer, penalty of warnings and stoppage of two increments was imposed

on 24-8-84. In appeal preferred by workman said punishment was modified to stoppage of one increment without cumulative effect. Workman was not allowed to appear promotion test to Officer Grade I held in January 1985.

3. Workman further submits that second chargesheet was issued to him on 20-9-85 alleging disorderly and indecent behavior by him with Shri L.P.Joshi Personal Officer. Tampering of Attendance register was also alleged. He submitted reply to said chargesheet on 4-9-85. Instead of considering his explanation, enquiry was conducted in a mechanical manner. Enquiry Officer submitted his report on 11-2-1987 holding that charges were proved against him. Workman submits that enquiry was not properly conducted. The findings of Enquiry Officer are perverse. He was not supplied list of documents causing prejudice in his defence. Enquiry Officer was biased. Workman further submits that he was served another chargesheet on 11-10-1985 alleging willful insubordinate and reasonable orders of the management riotous and indecent behavior in premises of Bank on 1-10-85. Workman submitted reply denying the charges. Formal enquiry was conducted and Enquiry Officer submitted his report. Copy of report of Enquiry Officer was not supplied to him. Workman submits that enquiry was not properly conducted. He was not supplied list of documents. In chargesheet, findings of Enquiry Officer are perverse. In view of report of Enquiry Officer, punishment of stoppage of two increments with cumulative effect was imposed on 26-5-87.

4. Workman preferred appeal on 19-11-87 without proper consideration, the penalty was imposed against him. Order of punishment is illegal and unjustified and deserves to be set-aside. Workman has reiterated he has not supplied copies of relevant documents, list of witnesses. The enquiry was not conducted as per procedure prescribed in bipartite settlement. Workman suffered prejudice in his defence. Workman has also contented violation of Article 309 to 311 of the Constitution. Disciplinary Authority did not assign any reasons for his conclusions while imposing punishment. Statements of witnesses reveal charges have not been established. Findings of Enquiry Officer are based on conjectures and surmises. On such ground, Ist party workman prays for setting aside the punishment of stoppage of increment imposed against him.

5. Ist party filed Written Statement at Page 9/1 to 9/14. Ist party submits that workman was terminated during his probation period on 26-10-78 for various irregularities committed by him at Khandwa branch. On undertaking submitted by workman, he was re-appointed on 20-11-78. It is submitted that chargesheet dated 21-12-82 was issued to workman for late attendance on 29-11-82 and leaving cashier's key in drawer of cashier's cabin

alleged to be gross negligence. Shri S.L.Vijay was appointed as Enquiry Officer. Workman had participated in Enquiry Proceedings. On 27-8-84, punishment of warning of charge No.1 and stoppage of two increments for charge No.2 was imposed. In appeal, said punishment was modified to stoppage of one annual increment without cumulative effect as per order dated 18-1-85.

6. 2nd chargesheet was issued to workman on 20-9-85 for heated argument with Personal Officer Shri L.P.Joshi and created riotous, disorderly and indecent scene in the premises of the Bank, 3rd was tampering with attendance register, marking his presence for leave period. Workman denied charges against him filing reply. Shri A.A.Parikh was asstt. Regional manager appointed as Appointing Officer and Shri R.C.Gupta as Presenting Officer. Workman submitted application for change of Enquiry Officer, disposed as per order dated 10-1-96. Enquiry Officer was disposed as per order dated 10-1-96. Enquiry Officer submitted report that charges against workman are proved.

7. 3rd charge was issued to workman on 11-10-85 for allegation of willful insubordination and disorderly behavior on 1-10-85. Shri Parikh was appointed as Enquiry Officer and Shri L.P.Joshi, Presenting Officer. Enquiry Officer submitted report charges against workman are proved. Punishment on both chargesheets was imposed. That stoppage of one annual increment each for charges leveled in both chargesheet. Thus stoppage of two increments was imposed. Ist party submits that enquiry was properly conducted. Workman is habitual in disobeying the orders of his superior. Punishment of stoppage of increment is proper and legal. All adverse contentions of workman are denied. It is further submitted that in case DE is found vitiated, management be permitted to prove misconduct leading evidence in Court. It is reiterated that all charges were issued properly, enquiry was properly conducted. It is denied that documents or list of witnesses were not supplied to workman. It is prayed that reference be answered in favour of management.

8. As per order dated 3-12-12, enquiry w.r.t. chargesheet dated 21-12-82 was found legal and enquiry w.r.t. chargesheet dated 20-9-85, 11-10-85 found illegal.

9. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |      |   |                |
|------|---|----------------|
| (i)  | Whether the charges against workman in chargesheet dated 21-12-82 are proved?                     | In Affirmative |
| (ii) | Whether management of Ist party proves misconduct alleged in chargesheet dated 20-9-85, 11-10-85? | In Affirmative |

- |  |  |
|--|--|
| (iii) Whether rejection of permission to appear in promotion test of workman is legal? | In Affirmative                         |
| (iv) If so, to what relief the workman is entitled to?"                                | Workman is not entitled to any relief. |

### REASONS

10. As discussed above, the terms of reference and pleadings in statement of claim and Written Statement submitted by parties clearly shows that the punishment of stoppage of increment imposed on workman in pursuance of chargesheet issued to him dated 21-12-82, 20-9-85 & 11-10-85. The enquiry w.r.t. chargesheet dated 21-12-82 is found legal and proper. Therefore the question arises whether the charges alleged against workman are proved from evidence in Enquiry Proceedings or findings of Enquiry Officer are perverse. For deciding above question, evidence in Enquiry proceedings needs to be considered. Workman has produced documents at Exhibit W-1 to W-14. Management also filed documents M-1 to M-29 is filed. The evidence of management's witness Shri N.P.Arora in Enquiry Proceedings at Page 18 onwards. At page 19, said witness says since they were waiting for Shri S.K.Gaur, Mr. D.K.Rathore, Daily wages subordinate informed us that you can open the cash as the keys re lying in the drawer of the cash cabin. Shri S.K.Gaur workman came and he opened the same. His evidence is further clear that on said day. Shri S.K.Gaur reported at 10.45 AM. The witness had come to office at 10.15 AM. The evidence of said witness that workman had come to office at 10.45 AM, the key of cashiers cabin were lying in drawer is not shattered in his cross-examination. The evidence of management's witness is clear that workman started shouting and abused that he will set him right. That the workman was asked for his explanation. He endorsed copy of Exhibit M-3 to Regional Office. The witness did not remember whether workman submitted any explanation. His cross-examination of said witness clearly shows that they observed time of coming to every employee that he was in branch premises at his seat, he had come at 10.15 AM. That Mr. Rathore was asking to find out the keys. That they were anxiously waiting for workman since they were in hurry to open cash. Workman was not asked why he came late. The evidence of management's witness V.S.Sood at Page 27 onwards corroborates evidence of Shri N.P.Arora. that the workman was late. He attended office at 10.45 AM. The witness had put remark in muster roll in that respect. His further evidence shows that workman was working as cashier cum clerk on said date. That cashier was responsible to keep keys of the safe in his custody. That the safe was opened in morning at 10.AM. on 29-11-82, it was opened at 10.45 AM. His evidence on material point is not shattered in his cross-examination. Said witness in his cross-examination says on 29-11-82 cash transaction started at

10.45 AM. Evidence of Defence Witnesses who tried to support contentions of workman cannot be accepted rejecting evidence of the management's witnesses. For above reasons, I record my finding in Point No. 1in Affirmative.

11. **Point No. 2, 3-** As discussed above, separate chargesheet were issued to workman on 21-12-82, 20-9-85 & 11-10-85 regarding ritious indecent behaviour of workman and tampering register. The enquiry w.r.t. those chargesheet is held vitiated therefore the evidence in Enquiry Proceedings couldnot be considered for deciding whether charges against workman in respective chargesheet was proved. Management filed affidavit of evidence of witness Shri L.P.Joshi. the management's witness Shri L.P.Joshi says he had given evidence in DE against workman on 23-8-85. Workman was worked as cashier cum clerk in Regional Office, FCI, Bhopal. Workman come to him requesting no objection certificate to be produced. At about 4.30 PM, he informed workman that certificate can be issued after due verification of particulars mentioned in the certificate and it will take time. Workman was irritated because he wanted certificate immediately. The witness further says workman again came at 5.15P.M and he was not satisfied with the designation clerk cum cashier. Though according to the witness, it was the same thing. An employee in clerical cadre is given dual designation. Witness further says workman started shouting, arguing. The witness told him that he worked in so many places and public sector industries but he never came across such a behaviour of a clerk to his officer. He shouted few words "aise officeron ko to jute marna chahiye". The witness tried to physically assault and therefore I intended to call police for my safety but dropped the idea on the suggestion of my fellow colleagues. The witness says that he being personnel officer in the region is supposed to mark timing of the late comers as well as leave in the attendance register. Shri Gaur did not turnup to office on 5th, 10th, 21st as late as 12.30 PM and on 22nd, he did not report up to 11.45 AM. Keeping in view sufficient leave in his credit, he marked him leave on 5th, 10th & 21st. he marked his attendance on the above dates overwriting the timing on the marking of leave. He also remained on leave on 24th August 1985. Management witness in his cross-examination says he retired as DGM on 31-10-2010. At that time, workman was posted at Bhopal. Despite arose in respect of issuance of NOC for outside job. That the NOC was issued after verifying contents on same day. Copy of NOC was kept on record. he did not see it before preparing this affidavit. In his further cross-examination, management's witness did not remember whether he submitted complaint in writing as incident was very old. He did not filed his complaint on record. though NOC was issued to workman, he did not join service at other place. The evidence of management's



witness that workman had abused by saying “Aise officeron ko to jute marna chahiye” is not shattered. I find no reason to disbelieve his evidence.

12. Workman has submitted affidavit of his evidence on the point that he was not supplied documents, no opportunity was given of personal hearing relates to finding on preliminary issues. However in his cross-examination, the workman says he was denied promotion to appear in test for promotion to officer grade. Relevant circular is produced by workman dated Exhibit W-14.

Clause 12.2 provides- “Any employee who has been punished for gross misconduct under the provisions of the bipartite settlement shall not be eligible for promotion for a period of three (3) years from the date of such punishment after the expiry of which he will have to reappear for the next written trade test.”

For reasons discussed above, I find no substance in the contentions of workman.

Learned counsel for Ist party Shri Pathak during course of argument referred to ratio held in case of S.K.Singh versus Central Bank of India reported in 1996(6) SCC 415. Said citation is not made available for my perusal.

Learned counsel for IInd party Shri A.K.Shashi on the point of powers of Labour Court under Section 11-A of I.D.Act relies on ratio held in case of Managing Director, Balasheb Desai Sahakari S.K.Limited versus Kashinath Ganapati Kambale reported in 2009(2) SCC 288. Their Lordship held Labour Court exercising its jurisdiction under the Act is entitled to consider whether punishment awarded is wholly disproportionate to the delinquent employee or not. Discretion vested in it must be exercised in a judicious manner.”

In present case, the charges against workman in all 3 chargesheets are proved. Considering the proves charges, workman tampered attendance register, he was late in attendance, he left cash cabin key in the drawer. The punishment of stoppage of increments modified in appeal cannot be said disproportionate. Therefore I record my finding in Point No.2,3,4 in Affirmative.

13. In the result, award is passed as under:-

- (i) The action of the management of Dena Bank in debarring Shri S.K.Gaur to appear in promotion test and stoppage of two increment with cumulative effect and one increment with non-cumulative effect is legal and proper.
- (ii) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 364.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 94/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-41012/232/97-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th February, 2015

**S.O. 364.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Central Railway and their workmen, received by the Central Government on 19/02/2015.

[No. L-41012/232/97-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/94/98

Shri Ramcharan,  
S/o Hazari Lal,  
Nai Basti, Nanak Ward,  
Gali No.2,  
Bina (MP)

...Workman

#### Versus

The Asstt. Engineer (M),  
Central Railway,  
Bhopal

...Management

#### AWARD

Passed on this 11th day of November, 2014

1. As per letter dated 28-5-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-41012/232/97-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of AEN(M), Central Railway, Bhopal in terminating the services of Shri Ramcharan S/o Hazarilal w.e.f. 16-6-90 on the basis of fake card is justified? If not, to what relief the workman is entitled for?

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 2/1 to 2/5. Case of Ist party workman is that he was working in Railway since 1980. In 1988, he was working as MRCL under PWI, Central Railway Bhopal. Chargesheet was issued to him on 29-10-88. His services were terminated on the ground that he secured appointment producing false service card. Workman challenged his termination filing petition OA No. 297/91 before CAT Jabalpur. By judgement dated 4-4-96, order of his termination was quashed and the matter was remitted back to the department for enquiry.

3. It is further submitted that enquiry was conducted against him contrary to principles of natural justice. He was removed from service. Appeal preferred by him was rejected. The order of unishment of removal is illegal.

4. party workman submits allegation against him that he secured appointment order producing false Card No. 263460 Shri K.P. Sharma was examined as management's witness in enquiry. Said witness has not produced one LTI Register in which left hand thump impression of casual labour is to be obtained. In said register, his thump impression was not available. It was further alleged that workman had not worked under PWI Satna in 1988 therefore Service card no. 207777 produced by him was alleged to be false. According to workman, finding of Enquiry Officer is perverse. The entries in record shows he was working under PWI, Sagar, Loco Foreman, Bhopal, IOW Bina. The management's witness says that workman was not working at Satna at relevant time. He has no knowledge about the facts and circumstances of the case. It is further contented that enquiry was not properly conducted. He was not given proper opportunity for his defence. Enquiry was conducted in hectic manner. On ground, workman prayed for his reinstatement with back wages from 16-6-90.

5. IInd party management filed Written Statement at Page 3/1 to 3/4 denying claim of the workman. IInd party submits that workman be directed to prove his casual service card was genuine. It is reiterated that the workman should prove from his office, service card was issued. The enquiry conducted against workman was proper. Principles of natural justice were followed. There is sufficient evidence to show that the service card produced by workman for securing employment was false. For proved charge against workman, punishment of removal was imposed against him. The punishment is illegal. The ground taken by workman about enquiry proceeding are after thought. It is submitted that if enquiry is found vitiated, management be allowed to prove misconduct adducing evidence.

6. As per order dated 1-5-2013, enquiry conducted against workman was found illegal. Management was permitted to prove misconduct in Court. Considering

pleadings on record and findings on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |   |                    |
|---|--------------------|
| (i) Whether the management IInd party proves that service card produced by workman for securing employment in Railway was fake/false?   | In negative        |
| (ii) Whether action of the management of AEN(M), Central Railway, Bhopal in terminating the services of Shri Ramcharan S/o Hazarilal w.e.f. 16-6-90 on the basis of fake card is justified? | In Negative        |
| (iii) If not, what relief the workman is entitled to?"  | As per final order |

### REASONS

7. Enquiry conducted against workman was found vitiated. Management was permitted to prove misconduct in Court. Management filed affidavit of witness Shri Iqbal Khan. Witness of management says that service card 263460 was not issued by Railway. On the basis of said card, workman had secured employment as casual labour. The person to whom service card is issued was required to deposit 1 Re at Railway Station counter, receipt for said amount is received. After such receipt was shown to PWI, service card used to be issued to him. The service card 263460 was not issued by PWI, Satna.

8. In his cross-examination, management's witness says he was conversant with the enquiry conducted against workman. He was writing Enquiry Proceedings. He admits that original service card 263460 was not deposited. It is not produced on record. Exhibit M-6 is zerox copy of the service card. MRCL Card used to be printed at Bicola Mumbai. He denies that genuiness of the service card issued to workman can be verified from Mumbai Office. No enquiry was made from Mumbai Office about service card no. 263460. The witness of the management denied that verification of original card was not made from Satna office. Witness further says that card was printed in 1980, enquiry was made about it and the card was found bogus. Workman was issued chargesheet Exhibit M-1. Any complaint was not received against workman that the card of workman was bogus. The entire evidence of management's witness shows about the verification of service card was made. Evidence of management's witness is silent who had made enquiry and found the service card issued to workman was bogus. Management's witness has not made such enquiry. What was the evidence for holding that card no. 263460 was bogus. In absence of such evidence, charge against workman cannot be proved. In written notes of argument

submitted on behalf of workman, it is submitted that the evidence is not sufficient to prove charge.

9. Learned counsel for IInd party Mr. Shailesh Mishra during course of argument submits that chargesheet Exhibit M-1 was issued to workman, any appointment order was not given to him. Management's witness Iqbal Khan has given procedure how service card used to be issued. His evidence on point is not challenged. Workman has not adduced any evidence as to who had issued service card in question.

10. The chargesheet is issued to workman for allegation that he secured employment on bogus service card therefore IInd party management is required to prove the charge. The burden cannot be placed on workman to prove that service card issued by him is genuine. Argument advanced by IInd party cannot be justified. For reasons discussed above, I record my finding in Point No.1 in Negative.

11. **Point No.2-** In view of my finding in Point No.1, charges against workman about securing employment in Railway by producing fake service card is not proved therefore removal of workman from service cannot be sustained. The order of removal from service/ termination of workman is illegal. Accordingly I record my finding in Point No.2.

12. **Point No.3-** The termination/ removal of workman from service is illegal. The question is whether workman is entitled for reinstatement with backwages from date of his initial termination i.e. 16-6-90. The reference is made on 25-5-98 workman first challenged order of his termination before CAT is not in dispute. The copy of judgment in Original Application 297/91 is produced on record. CAT set-aside order dated 16-6-90 and department was allowed to complete enquiry within 3 months following the procedure. The question of backwages was to be decided after final order was passed in enquiry. In view of above facts, the claim of back wages of workman deserves to be considered from date of his termination i.e. 16-6-90. Workman has adduced evidence in the case on the point of preliminary enquiry. In Para-15 of his affidavit, workman says he was unemployed after his termination. He has no means of livelihood. The evidence of management's witness is silent about gainful employment of workman. However evidence of workman is silent that since his termination in 1990, how he was maintaining his family. Considering above aspects, reinstatement of Ist party workman with 25 % back wages would be appropriate. Accordingly I record my finding in Point No.2.

13. In the result, award is passed as under:-

- (1) The action of the management of AEN(M), Central Railway, Bhopal in terminating the services of Shri Ramcharan S/o Hazarilal w.e.f. 16-6-90 on the basis of fake card is not legal.

- (2) IInd party is directed to reinstate workman with 25 % back wages.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 365.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदौर के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 229/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/61/98-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th February, 2015

**S.O. 365.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 229/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 19/02/2015.

[No. L-12012/61/98-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

**NO. CGIT/LC/R/229/98**

General Secretary,  
Daily wages Bank  
Employees Association,  
9, Sanwer Road,  
Ujjain

...Workman/Union

#### Versus

Managing Director,  
State Bank of Indore,  
SBOI, Head Office, 5, Y.N.Road,  
Indore

...Management

**AWARD**

Passed on this 12th day of January, 2015

1. As per letter dated 15-10-88 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/61/98-IR(B-I). The dispute under reference relates to:

“Whether the management of Managing Director, State Bank of Indore in terminating Shri Rajiv Marmat w.e.f. 3-3-97 and not regularizing him is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party workman, General Secretary, Daily Wages Bank Employees Union Shri Ram Nagwanshi submitted statement of claim at Page 2/1 to 2/3. Case of Union is that he was engaged as peon in IInd party Bank from 6-9-94. He was working from 10.30 AM to 6 PM. His service record was excellent. His services were discontinued from 3-3-97 without issuing notice. That he completed 240 days service. As such he is covered as employee under Section 25 B of I.D.Act. IInd party violated provisions of Section 33 of ID Act by terminating his services during pending conciliation proceedings before ALC. He was not paid retrenchment compensation. His services were terminated without notice in violation of Section 25-F of ID Act. Principles of first come last go was not followed. IInd party thereby committed violation of Section 25-G of ID Act. After termination of his services, IInd party engaged other persons for same work. Workman was not given reinstatement of workman with back wages.

3. IInd party filed Written Statement at page 5/1 to 5/7. IInd party submits that statement of claim is not signed and verified by Shri Rajiv Marmat, workman, rather it is signed and verified by Shri Ram Nagwanshi. It cannot be said statement of claim as provided under ID Act. The claim is not tenable. So called General Secretary of the Union has not submitted any documents authorizing him to raise dispute by the Union passing any resolution. Union at Ujjain is not competent to raise dispute of employees working at Indore. How Union got authority to raise dispute is not explained in statement of claim. The claim is not tenable. It is submitted that dispute is not existing against Managing Director who is impleaded as party in the reference. It is bad from misjoinder of parties.

4. IInd party further submits that workman was not working from 8 AM to 10 AM or 10.30 AM to 6 PM. There was no question of his working with devotion without any grievances. Workman was intermittently engaged for filling work. His appointment ended after period of his engagement. It is denied that IInd party violated provisions of Section 33 of ID Act by terminating services of workman. IInd party submits that workman had not completed 240 days continuous service. There is no question of violation of Section 25-F,G,N of I.D.Act. There is no question of

violation of Section 25-F, G, N of I.D.Act. IInd party has not violated said provisions of Section 25-F or any provisions of Sastry Award. IInd party has rules for appointment of staff. Workman was not appointed following conciliation process. He was not appointed following selection process by the Bank, no appointment order was issued to him. workman was engaged as per exigency of work. After completion of work, his services were discontinued. There was no question of any retrenchment compensation or issue notice. On such contentions, IInd party prayed that reference be answered in its favour.

5. Ist party workman filed rejoinder at Page 7/1 to 7/2 reiterating contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |   |                    |
|---|--------------------|
| (i) Whether the management of Managing Director, State Bank of Indore in terminating Shri Rajiv Marmat w.e.f. 3-3-97 and not regularizing him is justified? | In Negative        |
| (ii) If not, what relief the workman is entitled to?”   | As per final order |

**REASONS**

7. Ist party workman is challenging termination of workman for violation of Section 25-F, G, H, N of I.D.Act. IInd party had denied his claim contending that workman had no completed 240 days continuous service. He was intermittently engaged for cleaning work as per exigencies. Though contentions are raised about locus of Union in raising dispute, said point was not pressed at the time of argument.

8. Workman filed affidavit of his evidence supporting his claim. Though he was working in IInd party Bank as permanent peon from 6-9-94. He was working on daily wages. He was paid Rs.30/- per day. He completed 240 days continuous service. His wages were paid under voucher. The documents are with the Bank. His services were terminated without notice. He was not paid retrenchment compensation. In his cross-examination, workman says he was working in Bank of Indore at Patrakar Colony. There were two regular employees Rawan Verma and Lashkar. He had not appeared for examination of recruitment Board. He was interviewed by Branch Manager Brahma Swaroop. He was doing work of supplying drinking water and taking files to the respective places. He claims ignorance whether he was paid salary in pay scale of regular peon. The regular peon was not paid salary at Rs. 30/- per day. He denies that he was engaged only for 2-3 hours in a day. He passed 10th standard. Appointment letter was not given to him.



9. Management filed affidavit of witnesses Arun Kumar, Rajesh Gupta but they did not appeared for their cross-examination. Management's witness Paresh supported contentions of IInd party in affidavit of his evidence. He denied contentions of workman about continuously work from 6-9-94 to 3-3-97. The witness of management says that workman was engaged one hour morning one hour evening daily on daily wages. Workman was not appointed following recruitment rules. Management's witness in his cross-examination says that he was not posted in Patrakar colony branch of the Bank during 1994 to 1997. He denied copies of vouchers shown to him, no documents are produced in support of his affidavit. Any procedure for selection was not followed before workman was engaged. Permission of Superior Officers was not taken. Muster register was not maintained. Workman was paid wages under voucher. This documents are not produced. Management's witness was unable to tell for how many days and what rate wages were paid to the workman. That workman was not issued notice, retrenchment compensation was not paid to him before termination of his service. At present cleaning work in the branch is carried by outsourcing through contractor. The management's witness was not working in branch during relevant period. He has no personal knowledge. His affidavit is filed on basis of record though those documents are not produced. In cross-examination of workman, it was suggested that he was working for 2-3 days but management witness stated that workman was working for one hour morning and one hour evening. The wages were paid to workman under voucher, those documents are not produced by management. on the other hand, workman produced large number of zerox copies of vouchers. However those vouchers are not proved by adducing proper evidence. IInd party has filed annexure alongwith Written Statement showing payment of amount to workman during 10-3-94 to 1-3-97. However no evidence is produced by management for how many days the wages were paid. If evidence of workman and management's witness is carefully appreciated, the witness of management has no personal knowledge. I find no reason to discard evidence of workman that he was continuously working with IInd party. His services are terminated without notice. Workman was not paid retrenchment compensation. The evidence clearly on record shows that though workman completed 240 days continuous service before his termination, he was not paid retrenchment compensation. Notice of termination was not issued to him. IInd party has terminated services of workman filing provisions of Section 25-F of I.D.Act. For above reasons, I record my finding in Point No.1 in Negative.

10. In view of my finding on Point No.1, services of workman are terminated in violation of Section 25-F of I.D. Act, question arises whether he is entitled for reinstatement with back wages. The evidence in cross-examination of

workman shows that he had not appeared for any examination, he was not issued appointment letter, he was working on daily wages. He was paid wages Rs. 30/- per day. Workman was working from September, 94 to 3-3-97 for about 3 ½ years. Considering the nature of his employment on daily wages for about 3 ½ years, relief of reinstatement with back wages would not be justified. in my considered view, compensation Rs. 75,000/- would be appropriate considering workman was working about 3 ½ years. Accordingly I record point No.2.

11. In the result, award is passed as under:-

- (1) The action of the management of Managing Director, State Bank of Indore in terminating Shri Rajiv Marmat w.e.f. 3-3-97 and not regularizing him is not legal.
- (2) IInd party is directed to pay compensation Rs. 75,000/- to workman within 30 days from the date of publication of award.

In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 366.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डेमु पाना क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 169/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/611/98-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th February, 2015

**S.O. 366.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 169/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Damua Panna Kshetriya Gramin Bank and their workmen, received by the Central Government on 19/02/2015.

[No. L-12012/611/98-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/169/99**

Shri Prahalad Namdev,  
S/o Shri Paramulal Namdev,  
R/o Piparia,  
PO Jaitpur Kopara,  
Tehsil Devri,  
Sagar (MP)

...Workman

### Versus

The President,  
Damua Panna Kshetriya Gramin Bank,  
Head Office,  
Naya Bazar No.2, MP,  
Damua

...Management

### AWARD

Passed on this 9th day of January, 2015

1. As per letter dated 22-4-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/611/98/IR(B-I). The dispute under reference relates to:

“Whether the action of the management of President, Damua Panna Sagar Kshetriya Gramin Bank Damua, MP in not regularizing the services of Shri Prahlad Namdev, S/o Shri Paramulal Namdev, Ex-peon and terminating the services w.e.f. 4-8-97 is legal and justified. if not, to what relief the concerned workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 4/1 to 4/2. Case of workman is that he was appointed as peon in IInd party Bank from 24-4-85 at Kopra Branch. That he was continuously working more than 240 days prior to his termination on 3-8-87. That his services were terminated in violation of Section 25-F of I.D.Act. It amounts to retrenchment. That he was not paid retrenchment compensation before termination of his services. That provisions of Section 25-F, G, H of I.D.Act were not followed by IInd party while terminating his services. On such ground, workman submits termination of his service is illegal. He prays for regularisation of his service with consequential benefit.

3. IInd party filed Written Statement at Page 7/1 to 7/6. IInd party submits that the Bank was running branch at Kopra. The said branch was closed in 1994 on shifting to Devri. That Ist party workman was engaged on daily wages in said branch. He was intermittently working during 1985 to 1987. Workman was not appointed on regular basis following rules. Branch Manager was not authorized to make regular appointment. That Branch Managers are authorized to engage persons on daily wages to meet day to day working requirements. Workman was engaged on daily wages during 1985 to 1987. He was paid wages at admissible rates. That in 1985, workman had worked for

181 days, and 125 days in 1986, 10 days in 1987. Workman had not completed 240 days continuous service. Workman himself did not come for work after 3-8-87. His non-engagement doesnot amount to retrenchment. The contract of service had come to end. Non-engagement of workman is covered under Section 2(oo)(bb) of ID Act. It is reiterated that there were no sanctioned posts of messengers. In most of the branches, Branch Manager and cashier used to handle the transaction. Workman was not appointed following recruitment process. NABARD had issued instructions dated 9-5-96 restricting regular recruitment of messengers. That workman had not completed 240 days continuous service. He is not covered under Section 25-B of I.D.Act. Workman is not entitled to protection of IDAct. On such grounds, IInd party prays that award be answered in its favour.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |   |                     |
|---|---------------------|
| (i) Whether the action of the management of President, Damua Panna Sagar Kshetriya Gramin Bank Damua, MP in not regularizing the services of Shri Prahlad Namdev, S/o Shri Paramulal Namdev, Ex-peon and terminating the services w.e.f. 4-8-97 is legal and justified. | In Negative         |
| (ii) If not, what relief the workman is entitled to?”   | As per final orders |

### REASONS

5. Workman is challenging termination of his service for violating Section 25-F of I.D.Act. That while discontinuing his services, provisions of Section 25-G, H of I.D.Act were not followed. Incidentally workman pleaded that he completed more than 240 days continuous service before his non-engagement. IInd party denied that workman completed 240 days continuous service and therefore he is not entitled to protection under Section 25-F of I.D.Act.

6. In his affidavit of evidence, workman reiterates that he was continuously working from 24-4-85 to 3-8-87. He completed 240 days continuous service. His services were terminated without notice. He was not paid retrenchment compensation. In his cross-examination, workman says that he was appointed on regular post. Appointment letter was not issued to him. He submitted application in the Bank. The vacant post were shown. The post was not advertised. In next breath, he says he had submitted application, he was working from 1985 to 87. He was orally terminated on 4-8-87. The branch was shifted from Kopra to Devri. That he has produced copy of his application and legal notice. After discontinuation of his service, the

Bank had appointed other persons. He did not recollect the date. The evidence of workman that he was continuously working from 24-4-85 to 31-8-85 was not challenged in his cross-examination. No suggestion is given to him that he has not completed 240 days service.

7. Management's witness Madhav Khare tried to support contentions of IInd party that workman was engaged purely on daily wages. He did not come to work after 3-8-87. In para-4 of his affidavit, management's witness has given working days of workman 181 days in 1985, 125 days in 1986, 10 days in 1987. That workman had not completed 240 days continuous service. He was not covered under Section 25-B of I.D.Act.

8. Management's witness in his cross-examination says he had not seen original register of Exhibit M-1. Entries in Exhibit M-1 were not recorded in his presence. Exhibit M-1 is register of daily expenses. There is no column about payment. It shows working days of employees and payments made to them. During 1985 to 1987 he was posted in Shivpuri. During 86-87, he had not seen workman Prahlad and others appearing in Exhibit M-1. That Branch Manager is not competent to employ daily wage employees. No letter is produced on record. While coming for his evidence, he has not seen register about payment of wages to daily wage employees. Witness says such register is not available in Bank. That he had not gone through record of Branch Office. He seen record before submitting his affidavit. The witness was unable to tell details of the record. The workman has produced Exhibit W-1. Management has produced Exhibit M-1. The calculation of working days of workman in M-1 are 181 days in 1985, 125 days in 1986, 10 days in 1987. M-2 produced by management is applications submitted to ALC for raising dispute. The working days shown in Exhibit W-1, workman was continuously working from 24-4-85 to 25-11-85. In cross-examination of workman, he was not suggested that he himself left the work after 3-8-87. Whatever documents workman could secure he has produced on record. If evidence of workman is appreciated with evidence of management's witness he has no personal knowledge about working of workman. He has not seen register of payment of wages. Management's witness does not say that the record is destroyed or lost. Rather the management's witness has produced Exhibit M-1. It shows that the relevant record was available with the Bank. Therefore I do not find reason to disbelieve evidence of Ist party workman. His evidence is not shattered that he was continuously working till 3-8-87. In my considered view, if evidence of workman is supported by part of documents is relied, evidence of workman can be accepted that he completed 240 days continuous service. His services were terminated without notice, he was not paid retrenchment compensation therefore termination of

services of workman is in violation of Section 25-F of I.D.Act. Therefore I record my finding in Point No.1 in Negative.

9. **Point No.2-** Termination of service of workman is in violation of Section 25-F of I.D.Act. In view of my finding in Point No.1 question arises whether workman is entitled for reinstatement with back wages. The evidence in cross-examination is clear that he was not interviewed. He was engaged on daily wages. Workman was working from 24-4-85 to 3-8-87 for more than 2 years. Workman considered legal position that daily wagers are not entitled for reinstatement. In my considered view, compensation Rs. 60,000/- would be appropriate. I record my finding in Point No.2 accordingly.

10. In the result, award is passed as under:-

- (1) The action of the management of President, Damua Panna Sagar Kshetriya Gramin Bank Damua, MP in not regularizing the services of Shri Prahlad Namdev, S/o Shri Paramulal Namdev, Ex-peon and terminating the services w.e.f. 4-8-97 is not legal.
- (2) IInd party is directed to pay compensation Rs. 60,000/- to the workman within 30 days from the date of award.

In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 367.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ हैदराबाद के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 10/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12025/01/2015-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th February, 2015

**S.O. 367.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of State Bank of Hyderabad and their workmen, received by the Central Government on 19/02/2015.

[No. L-12025/01/2015-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT  
HYDERABAD****Present :** Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 13th day of August, 2014

**INDUSTRIAL DISPUTE L.C. No. 10/2012****Between:**

Sri S. Rajababu,  
S/o Sammaiah,  
C/o M/s. G. Vidyasagar, Advocates,  
719, Sri Venakteswara Temple Lane,  
Chikkadpalli,  
Hyderabad – 500 020

...Petitioner

**AND**

1. The Disciplinary Authority/Chairman,  
Deccan Grameena Bank,  
(Sponsored by State Bank of Hyderabad)  
HO: H.No. 2-1-520, 2nd floor,  
Vijaya Sri Sai Calesria,  
St. No.9, Sankarmuth Road,  
Hyderabad – 500 044.
  2. The Deputy General,  
State Bank of Hyderabad,  
Deccan Grameena Bank,  
Head Office,  
Hyderabad
- ...Respondents

**Appearances :**

- For the Petitioner : M/s. G. Vidya Sagar, K. Udaya  
Sri, P. Sudheer Rao & D. Suni  
Kumar, Advocates
- For the Respondent : M/s.A. Krishnam Raju,  
G. Dinesh Kumar &  
N.S. Reddy, Advocates

**AWARD**

This is a petition filed by the Petitioner Sri S. Raja Babu, under Sec.2 A (2) of the I.D. Act, 1947 against the management of M/s. Deccan Grameena Bank and numbered in this Court as L.C.I.D.No. 10/2012 and notices were issued to the parties.

2. Petitioner has filed this petition questioning his removal from service vide order dated 29.3.2011 and Appellate Order dated 3.8.2011 by the Respondent without following the procedure, seeking for reinstatement with all consequential benefits.

3. Respondent has filed counter statement stating that Petitioner was chargesheeted for certain irregularities and after conducting due enquiry he was removed from service. As such, the petition be dismissed.

4. The case is posted for arguments on the question of validity of domestic enquiry conducted by the management against the Petitioner.

5. At this stage, Petitioner filed a memo stating that during pendency of the proceedings of the present dispute, the conciliation officer conducted joint meetings, but the management has not come forward for amicable settlement. The conciliation officer has forwarded his failure report to the Government of India and after receipt of the same the Government of India, Ministry of Labour and Employment, New Delhi has referred the matter to this Tribunal and the same was numbered as ID 22/2014 on the file of this Tribunal. In the circumstances, Petitioner intends to withdraw the present LC No.10/2012 with a liberty to prosecute the ID No. 22/2014.

6. In view of the memo filed by the Petitioner workman withdrawing his case, 'Nil' award is passed as claim is withdrawn.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

**Appendix of evidence**

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 368.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 91/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12012/153/91-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th February, 2015

**S.O. 368.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 91/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubanswar as shown in the Annexure in the Industrial Dispute between the management of State



Bank of India and their workmen, received by the Central Government on 19/02/2015.

[No. L-12012/153/91-IR (B-I)]

SUMATI SAKLANI, Section Officer

### ANNEXURE

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, BHUBANESWAR

**Present :** Shri Pradeep Kumar, Presiding Officer,  
C.G.I.T.-cum-Labour Court, Bhubaneswar

**Tr. INDUSTRIAL DISPUTE CASE NO. 91/2001**

L-12012/153/91 - IR(B.III), dated 28.08.1991

Date of Passing Award –19th Day of January, 2015

### Between:

The Regional Manager, : 1st Party Management  
State Bank of India, Region-1,  
Regional Office, Near Capital  
Thana, Unit-1 Bhubaneswar,  
Odisha

### (And)

Shri S.N. Dora, Ex-C.C.T., : 2nd Party Workman  
C/o-Kamala Kanta Panda,  
Plot No. 152, Chintamaniswar  
Colony, Bhubaneswar,  
Odisha

### Appearances :

1. M/s. Jagannath Pattnaik, : For the 1st Party  
Advocate Management
2. Shri S.N. Dora : For himself the  
2nd Party Workman

### AWARD

The Government of India in the Ministry of Labour & Employment has referred the present dispute existing between the employer in relation to the Management of The Regional Manager, State Bank of India, Region-1, Bhubaneswar, Odisha, and their workmen Shri Satya Narayan Dora in exercise of the powers conferred under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act vide their Letter No. L-12012/153/91 - IR(B.III), dated 28.08.1991 to the Tribunal for adjudication. The dispute as referred to has been mentioned under the schedule of the order of reference which is quoted below.

“Whether the action of the Regional Manager, State Bank of India, Bhubaneswar in dismissing Shri Satya Narayan Dora C.C.T. from service with effect from 17.2.1990 is legal and justified? If not, to what relief the workman is entitled to ?”

2. In his claim statement the 2nd party workman contends that he had joined as a Clerk-cum-Typist in the State Bank of India on 18.01.1979 and thereafter he was transferred and posted at places like Nabarangpur, Sakhigopal and at Puri. At Puri he joined in the Temple Road Evening Branch of the State Bank of India on 18.10.1983. While serving there he was placed under suspension on the advise of the C.B.I., Bhubaneswar in relation to a case involving fraud of bank's money. The Regional Manager, State Bank of India, Bhubaneswar framed necessary charges against the 2nd party workman in an illegal and unjustified manner in the false allegation that he had committed the said fraud in corrupt collusion with one Shri Raj Kishore Barik, the messenger of the bank, by fabricating the “Mail Transfer” issued from Kolkatta Branch and for transferring the amount to a fictitious account opened in the name of one Shri Manoj Kumar Das. In the above enquiry the management with an ill intention declared the workman as guilty and dismissed the workman from services with effect from 17.02.1990. It is alleged by the 2nd party workman that the above enquiry was not conducted fairly in as much as he was not provided with sufficient opportunity to defend himself and as such the action of the management is liable to be set aside.

3. The 1st party management of State Bank of India filed his written statement denying therewith the averments of the workman, Shri Dora. Three issues were framed by the learned Odisha Industrial Tribunal, Bhubaneswar on 10.02.1992. The issues are:-

- (1) Is the domestic enquiry conducted against the workman fair and proper?
- (2) Is the action of the Regional Manager, State Bank of India in dismissing the workman from service w.e.f. 17.02.90 legal and justified?
- (3) To what relief, the workman is entitled to?

4. The 1st party management of State Bank of India have examined 06 (six) witnesses on their behalf and proved certain documents marked as Exhibit 1 to Exhibit 14/1. On the other hand, the 2nd party workman has examined has examined himself as the workman witness and proved certain documents marked as Exhibit A to Exhibit G.

5. The matter followed a final order on 18.10.1997 wherein the enquiry conducted against the workman was declared to be not fare & proper and the 1st party management was permitted to examine it's additional witnesses, if he so chosen to justify the order of dismissal passed against the workman. But, without examining his further witness, the 1st party management preferred O.J.C. 16529/97 before the Hon'ble Odisha High Court, wherein the Hon'ble Court upheld the order passed by the Industrial Tribunal on 18.10.1997 and remanded the matter to the Tribunal with permission to the 1st party management to examine additional witness, if any. But, the 1st party

management did not examine any further witness and simply wanted to finish up the case by advancing arguments and filed his written arguments. The 2nd party workman also filed his written notes of arguments.

6. Accordingly, my predecessor passed an award on 21.04.2009, directing the 1st party management to reinstate the workman in his former post and to pay 50% of his back wages to him alongwith all service benefits. Aggrieved with the same, the 1st party management again preferred W.P.(C) No. 19687/2009 before the Hon'ble Odisha High Court wherein the observations made by the Hon'ble Court are as follows.

"In the aforesaid view of the matter, this court sets aside the order of the Tribunal directing reinstatement of the workman with 50% back wages without interfering with the finding on the preliminary issue and remits the matter back to the Central Government Industrial Tribunal –cum- Labour Court, Bhubaneswar to pass order afresh taking into consideration all evidences led by the parties before the Tribunal including those in relation to the merits of the charge, after arguments from the parties. No party is permitted to lead any further evidence."

7. In view of the orders of the Hon'ble Court, I have heard the oral arguments from the side of both the 1st party management of State Bank of India and the 2nd party Workman Shri Satya Narayan Dora, perused the record alongwith all the evidences led by the parties.

### FINDINGS

#### Issue No. 1

8. The Tribunal took up issue No. 1 relating to the propriety of the Domestic Enquiry as preliminary issue and came to held in its order dated 18.10.1997 that the enquiry conducted against the workman was not fare and proper. The Hon'ble Odisha High Court also did not interfere into the legality and propriety of the above order. Therefore, I found no infirmity in declaring the Domestic Enquiry conducted against the 2nd party workman by the 1st party management as not fair and proper. Thus, issue No. 1 is answered against the 1st party management, State Bank of India.

#### Issue No. 2

9. From the documents available on record and the oral arguments submitted by the parties, it is ascertained that the matter involves three branches of the 1st party management, State Bank of India. One at it's Kolkatta branch, the second one is it's main branch at Puri and the third one is the Temple Road branch at Puri. The disputant workman was a Clerk-cum-Typist in the Puri Temple Road Branch. In the Puri Temple Road Branch of the management, one Shri Prabhakar Mallick (in short "Shri Mallick") was the regular branch manager and Shri R.R.

Pattanaik (in short "Shri Pattanaik") was the accountant who used to function as the branch manager (in charge) in the absence of the regular branch manager.

10. The fictitious account holder Shri Manoj Kumar Das (in short "Shri Das") opened up his savings bank account in the Puri Temple Road Branch and just after one month he transferred his account to the Puri Main branch of the 1st party management. On both the days the regular branch manager, Shri Mallick was absent in the branch. Hence, the application of Shri Das was duly considered, verified and signed/recommended by Shri Pattanaik as the branch manager (In charge) and after that the savings bank account was opened with initial deposit of Rs. 100/-. Similarly, on the date of application of Shri Das for transfer of his savings bank account to the Puri Main branch, due to the absence of Shri Mallick, the application of Shri Das was duly considered and recommended for the transfer of his savings bank account from the temple road branch to puri main branch by Shri Pattnaik. In this connection, the activities of Shri Mallick sheds doubt on his integrity as on both the days of such transactions of Shri Das, Shri Mallick was absent.

11. Again, it is ascertained that opening up of a savings bank account and it's transfer to any other branch is no way concerned with the business of clerks. It is the business of the concerned officer of the bank, generally the branch manager on whose recommendations and instructions the account is opened up and subsequently transferred to other branch if so required by the bank customer. The disputant workmen Shri Satya Narayan Dora (in short "Shri Dora") was a clerk –cum- typist (in short "C.C.T.") in the Puri Temple Road branch. He has not done anything on the opening of the savings bank account of Shri Das and later on transfer of the same to the Puri Main branch except asking Shri Das to meet the branch manager to materialize his requests as has been done by the counter clerks of the bank.

12. Regarding the matter of Mail Transfer Advice (in short "MTA"), the same relates to two branches of the 1st party management. One is it's branch at Kolkatta and the other is Puri Main branch. But, Shri Dora was not an employee of any of these two branches. Hence, the matter of MTA is no way concerned with the disputant workman Shri Das as he was an employee of a different branch.

13. It is an admitted fact that on the complaint of Shri Mallick before the C.B.I., Bhubaneswar, the C.B.I. advised the bank to suspend Shri Dora. Later on taking the same plea, the 1st party management leveled charges against Shri Dora and accordingly initiated the departmental proceedings against him. The f1st party management also dismissed Shri Dora hurriedly as if they were in the malafide intention of closing down the matter of irregularity without waiting for the final order of the learned C.B.I. Court. The C.B.I. Court in it's final order, discharged the accused for

want of sufficient evidence. It seems, the 1st party management in an ulterior motive to patch up their mistakes of irregularities, transferred their liabilities by loading the same upon the innocent workman Shri Dora. Also, in this way it appears that the 1st party management has exercised the employer's rights in a colourable manner and victimized Shri Dora by making him a scape goat.

14. In so far as the evidences adduced by the witnesses both in the domestic enquiry conducted by the 1st party management and in the proceedings of the Industrial Tribunal, no prima facie evidence is adduced against Shri Dora. Shri Dora also not found guilty in the C.B.I. investigation. The 1st party management took action against the disputant workman Shri Dora relying only on the report of the finger print expert Shri V.G.S. Bhatnagar. The finger print expert was functioning in his Kolkatta office and during his examination as management witness No. 2 he failed to prove his manner of investigation/examination before the Tribunal on the ground that he did not have the required instruments with him. This is of no excuse as when his report was liable to dismiss the workman from his services, he ought to have come prepared to prove his investigation/examination.

15. The 1st party management have not taken steps for investigating the acts/integrity of its officers like Shri Mallick who had remained absent on the transaction days of Shri Das. Since, Shri Pattanaik who had recommended for opening and transfer of the account of the fictitious account holder Shri Das, as a branch manager (in charge), his acts/integrity must also had to be investigated. Therefore, the involvement of the 1st party management through their officers like Shri Mallick in the matters of opening a fictitious savings bank account in the name of Shri Manoj Kumar Das and the transaction of fraudulent Mail Transfer Advice, cannot be ruled out. But, without taking any action against any of his officers, the 1st party management preferred to kill the services of an innocent workman like Shri Dora in an illegal and unjust manner which seems to have been done only to protect/safeguard their officers. On the above counts, the 1st party management is not legal and justified in imposing the punishment of dismissal from service of the workman Shri Dora with effect from 17.02.1990. Thus, issue No. 2 is answered against the 1st party management, State Bank of India.

### Issue No. 3

16. The 2nd party workman Shri Dora has lost his social status and his family devastated due to the above illegal acts of the 1st party management. Also, had Shri Dora continued in his service, he would have become a senior officer of the bank by the time of his retirement and could have earned a huge amount of money towards his pay and allowances & other service benefits. Therefore, in view

of the above findings, I feel it proper to award compensation in favour of Shri Dora alongwith other reliefs. Accordingly, the 1st party management is ordered to pay an amount of Rs. 25 lakhs (Rupees Twenty Five Lakhs) only towards compensation to Shri Dora. Further, the 1st party management is ordered to pay 50% of back wages to the 2nd party workman Shri Dora with effect from the date of his dismissal, that is 17.02.1990 till the date of his retirement on superannuation, that is 28.02.2013. The 1st party management of State Bank of India is to implement the award within three months from the date of publication of this award in the Gazette of India failing which the management shall pay interest @ 12% per annum simple interest to Shri Dora.. Thus, issue No. 3 is answered.

17. The reference is answered accordingly in favour of the 2nd party workman Shri Satya Narayan Dora.

Dictated and corrected by me.

PRADEEP KUMAR, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 369.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोनकन रेलवे कार्पोरेशन लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 30/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-41012/15/2011-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th February, 2015

**S.O. 369.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 30/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Konkan Railway Corporation Ltd. and their workmen, received by the Central Government on 19/02/2015.

[No. L-41012/15/2011-IR (B-I)]

SUMATI SAKLANI, Section Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 5th DECEMBER 2014

**PRESENT :** Shri S N NAVALGUND, Presiding Officer

**C R No. 30/2011**

**I Party**

Shri Ganesh B, S/o Shri Krishnaiah Sheregar,  
Bande Baindnor Post, Kundapur Taluk,  
Udupi District-576 124.

**II Party**

The Chief Personnel Officer,  
Konkan Railway Corporation Limited,  
Belapur Bhavan, Sector II,  
CBD Belapur,  
Navi Mumbai-400 614.

**Appearances :**

I Party : Shri D R Vishwanath Bhat, Advocate

II Party : None

**AWARD**

1. The Central Government vide order No. L-41012/15/2011-IR(B-I) dated 11.07.2011 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

**SCHEDULE**

“Whether the action of the management of Konkan Railway Corporation Limited in imposing the penalty of removal from service on Shri Ganesh B. Vide their order dated 09/10/2009, is legal and justified? To what relief the workman is entitled?”

2. On receipt of the reference while registering it in CR 30/2011 when notices were issued to both the parties Sh. D R V Bhat, Advocate on 08.11.2011 filed vakalat for the I Party and also the claim statement, whereas, on that day Sh. Abshik Mali Patil, Advocate who undertaken to file vakalat for the II party and to file counter statement subsequently inspite of affording three opportunities did not avail the same and ultimately on 27.02.2012 taking that II Party is not interested to appear and oppose the reference the matter was posted for evidence of the I party.

3. The I party in his claim statement who asserts that he having been adopted by Sh. Krishnaiah Sheregar and Smt. Savithri after following the due legal process and that the 23 cents of land belonging to Smt. Parameshvari Sheregarthi was acquired by the Konkan Railway Corporation who was the mother of Sh. Krishnaiah Sheregar and in view of the employment circular of the II Party that the Land Losers would be provided with an employment with the II Party he was appointed as Trackman after due verification of the records vide order dated 25.04.2005 and he was discharging his duties with utmost devotion and sincerity and on 30.04.2005 he was issued with a charge sheet that his brother Sh. Umesh B already being appointed his appointment is liable to be cancelled and enquiry was

constituted to enquire into the allegations and the Enquiry Officer without providing him list of documents, witnesses and statement of witnesses and following the principles of natural justice and without giving him an opportunity to cross-examine the management witnesses concluded the enquiry and Disciplinary Authority illegally Dismissed him from service w.e.f. 09.10.2009 and requested to reinstate him into the service, with continuity of service, back wages and all other consequential benefits while filing the affidavit swearing to those facts and examining himself on oath as WW 1 (M) got exhibited Ex W-1 to Ex W-40 the detailed description of which are narrated in the Annexure and as inspite of giving opportunity to the II Party to cross-examine him the same was since not availed he was discharged from cross-examination.

4. With the above pleadings/claim statement, oral and documentary evidence placed on record for the I Party his learned advocate urged that his assertion in the claim statement and evidence left uncontroverted and unchallenged the action of the management has to be held as illegal and unjustified.

5. On appreciation of the averments made in the claim statement, oral and documentary evidence adduced by the I party with the arguments addressed by his counsel the reference is allowed and I party is ordered to be reinstated with 50% of the Back wages, continuity of service and other consequential benefits that he would have received in the absence of the impugned penalty of removal from service for the following

**REASONS**

6. The II party which appointed the I party as a Trackman under the land losers category subsequently on the ground that it has come to its notice his elder brother Sh. Umesh B being already appointed giving the benefit of Land Loser family giving him show cause notice and being not satisfied with his reply by serving a charge sheet claiming that an enquiry was conducted on the same passed the impugned order dated 09.10.2009 removing him service. Since the I party claims that since he was taken in adoption by Sh. Krishniah Sheregar and Smt. Savithri in accordance with law who were also land losers for Konkan Railway, as their adopted son claimed the appointment and this assertion and the evidence adduced on this aspect being not controverted or assailed by the II Party by entering appearance and filing objection statement and leading any rebuttal evidence, I have no reason to disbelieve the assertion of the I Party made in his claim statement which is supported by the Oral and Documentary Evidence produced during the trial. As per the schedule of reference the burden was on the II party to substantiate its action of imposing the penalty of removal from service being legal and justified but II Party did not care to put in its appearance and to oppose the



claim of the I Party. Under the circumstance, I have arrived at conclusion the II party having failed to substantiate its action of removing the I Party from service. Having regard to the nature of job for which the I Party was appointed. I feel it just and appropriate to order for his reinstatement with 50% backwages, continuity of service and all other consequential benefits he would have been received in the absence of his removal from service. In the result, I pass the following

### ORDER

The management is not justified in imposing the punishment of Removal from Service on Shri Ganesh B vide their order dated 09.10.2009 and he is entitle for reinstatment with 50% of the Back wages, continuity of service and other consequential benefits that he would have received in the absence of the impugned penalty of removal from service.

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 370.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय रिज़र्व बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 95/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[ सं. एल-12012/115/99-आईआर (बी-1) ]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th February, 2015

**S.O. 370.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Reserve Bank of India and their workmen, received by the Central Government on 19/02/2015.

[No. L-12012/115/99-IR (B-I)]

SUMATI SAKLANI, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 2nd January, 2015

**PRESENT :** Shri S. N. NAVALGUND, Presiding Officer

**C R No. 95/1999**

### I Party

Smt. Gajalakshmi,  
W/o late Shri V Thangaraj,  
No. 157, 7th Square,  
Murphy Town, Ulsoor,  
Bangalore-560 008

### II Party

The Manager,  
Reserve Bank of India,  
Nurpathunga Road,  
Bangalore-560 001.

### Appearances :

I Party : Shri D R V Bhat, Advocate

II Party : Smt. Bindu Radhakrishnan,  
Assistant Legal Advisor

### AWARD

1. The Central Government vide order No. L-12012/115/99-IR(B-I) dated 30.07.1999 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

### SCHEDULE

“Whether the management of Reserve Bank of India is justified in dismissing the services of late Shri V Thangaraj, Mazdoor, w.e.f. 14.11.1991? If not, to what relief Smt. Gajalakshmi, wife of the deceased, is entitled?”

2. On receipt of the reference while registering it in C R 95/1999, when notices were issued to both the parties, I party entered her appearance through Sh. D R V Bhat, Advocate and filed her claim statement 11.06.2002 and II party through Sh. C Subhas, Legal Officer and filed its counter statement on 16.08.2002.

3. The brief facts that leads to this reference and Award may be stated as under.

4. It is borne out from the records that the first party Sh. V Thangaraj the deceased husband of who was working as Mazdoor along with Sh. Richard Pinto, K M Mathew, S Ramalingam and Sh. B Jayaraj in Examination Hall B was served with charge sheet as under:-

“You are advised that in the circumstances mentioned in paragraph 2 below, the charges as set out in paragraph 3 have been framed against you.

2 (i) It was reported that on 24.2.1979, you had in collusion with S/Shri Richard Pinto, K.M. Mathew, S. Ramalingam and B.Jayaraj substituted one packed of non-defaced notes of denomination of Rs. 100/- by already defaced notes which were punched/

defaced prior to 24.2.1979. This packet of defaced notes was passed on to Shri Riachrd Pinto by Sri B.Jayaraj through Sri S.Ramalingam. In turn, Richard Pinto is reported to have passed on the said packet to Shri K.M.Mathew, Coin/Note Examiner Gr.II. On 24.2.1979 when Shri K.M.Mathew was working as Coin/Note Examiner in Examination Hall 'B', Shri K.M.Mathew is reported to have substituted the note packet of Rs. 100/- bearing seal BG-NW (which seal was issued to Shri K.M.Mathew on that day) by the packet of the same denomination received from you in collusion with S/Shri Jayaraj, Ramalingam, Richard Pinto and K.M.Mathew had caused a loss of Rs. 10000/- to the Bank as a result of the substitution referred to above.

(ii) On 27.3.1979, you were working as Mazdoor in Examination Hall 'B' of this office. It was reported that on that day in collusion with Sri K.M.Mathew and Richard Pinto who were working as Coin/Note Examiner Gr. II and Group Supervisor respectively, you had substituted one packet of notes of the denomination of Rs. 100/-, punched/defaced prior to 27.3.1978. On 27.3.1978, when Sri K.M.Mathew was working as Coin/Note Examiner Gr. II in Examination Hall 'B', Shri K.M.Mathew is reported to have substituted the note packet of seal 'BG-SZ' (which seal was issued to Shri K.M.Mathew on that day) by the packet of the same denomination received from you in collusion with Shri Richard Pinto and yourself. Thus, your action in collusion with the persons cited above had caused a loss of Rs. 10,000/- to the Bank as a result of the substitution referred to above.

(iii) On 5.4.1979, you were working as Mazdoor in Examination Hall 'D' of this office. It was reported that on that day, in collusion with Shri K.M.Mathew and Shri Richard Pinto who were working as Coin-Note Examiner Gr.II and Group Supervisor respectively, you had substituted one packed of the notes of the denomination of Rs. 100/- punched/defaced prior to 5.4.1979. On 5.4.1979, when Shri K.M.Mathew was working as Coin-Note Examiner Gr. II in Examination 'D', Shri K.M.Mathew is reported to have substituted the note packed of seal 'BG-AL' (which seal was issued to Sri K.M.Mathew on that day) by the packet of the same denomination received from you in collusion with S/Sri Mathew and Richard Pinto had caused a loss of Rs. 10,000/- to the Bank as a result of the substitution referred to above.

(iv) It was reported that on 9.4.1979 you had in collusion with S/Shri Richard Pinto, K.M.Mathew, B.Jayaraj, S.Ramalingam and M. Devadoss, you had abetted in the substitution of one packed of non-defaced notes of denomination of Rs. 100/- by

already defaced notes which were punched/ defaced prior to 9.4.1979. This packet of defaced notes was passed on by Sri B.Jayaraj to Sri Richard Pinto through Sri S.Ramalingam. In turn, Sri Richard Pinto is reported to have passed on the said packet to Shri K.M.Mathew, Coin-Note Examiner Gr. II. On 9.4.1979, when Sri K.M.Mathew was working as Coin-Note Examiner in Examination hall 'B', Shri K.M.Mathew is reported to have substituted the note packet of Rs. 100/- bearing seal BG-AH (which seal was issued to Shri K.M.Mathew on that day) by the packet of the same denomination received from you in collusion with the persons cited above. Thus, your action in collusion with S/Shri Richard Pinto, K.M.Mathew, B.Jayaraj, S.Ramalingam and M.Devadoss had caused a loss of Rs. 10,000/- to the Bank as a result of the substitution referred to above.

3. You are, therefore, charged with having committed an act of misconduct by being a party to the substitution of the non-defaced notes by already defaced notes and thereby having acted in a manner detrimental to the interests of the Bank causing a loss of Rs. 40,000/- to the Bank.

4. Accordingly, this charge sheet is issued to you in pursuance of Regulation 47 of the Reserve Bank of India (Staff) Regulations, 1948.

5. You are hereby called upon to answer the above charges in writing or in person in which case your defence will be taken down in writing and read out to you. Any defence you may wish to proffer including the list of witnesses you may wish to produce, should be submitted along with the reply to the above charges to the undersigned on or before 30.04.1985.

Yours faithfully,

Sd/-

(J P Awasthi)

Manager"

and appointed Sh. V V Nayak as Enquiry Officer and Sh. Mohammed Shafi Ahmed as Presenting Officer and initiated the Domestic Enquiry. The Enquiry Officer while securing the presence of the I Party and the Management Representative observing the formalities of preliminary hearing and receiving the evidence of six witnesses for the management and as the CSE did not wish to lead any evidence the Enquiry Officer closed the enquiry and submitted his enquiry report dated 18.04.1988 holding him guilty of the charges and Disciplinary Authority after affording opportunity of hearing passed the order of Dismissal from Service and on appeal by the I Party the Appellate Authority affording opportunity of hearing confirmed the order of the Disciplinary Authority by his

order dated 16.06.1993. In the meanwhile since Sh. V Thangaraj died his wife approached the RLC(C), Bangalore and on his submission of FOC report dated 15.03.1999 this reference came to be made for adjudication.

5. Having regard to the contention raised by the first party with regard to the fairness or otherwise of the Domestic Enquiry while raising a preliminary issue as to

“Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper?”,

my learned Predecessor after receiving the evidence adduced by both sides and hearing arguments on the said issue answered the same in the ‘negative’ i.e. the enquiry being not fair and proper and aggrieved by it management/ II Party approached the Hon’ble High Court of Karnataka in W P No. 21066/2005 (L-RES) the Hon’ble High Court vide order dated 13.02.2013 quashed the order of this tribunal and held that the Domestic Enquiry held against the I Party is fair and proper and remitted the matter back to this tribunal. In view of the said order the matter came to be posted for Evidence of I party on the point of victimization and being not gainfully employed but the same was being not availed after affording several opportunities the matter came to be posted for hearing arguments on merits. Authorised Representative of the II Party addressed her oral arguments and though several opportunities were afforded for I Party counsel same was being not availed the matter came to be posted for award.

6. Since the Domestic Enquiry has been held as fair and proper it was for the first party to demonstrate that the enquiry finding was perverse and that the Disciplinary Authority or Appellate Authority could not have placed reliance on such a finding to impose the highest punishment of dismissal. But as already adverted to by me above, the first party and her counsel since never turned up after the finding of the Hon’ble High Court on the Domestic Enquiry issue, I feel that they left abandoned the reference being satisfied that they have no hope of success. It is also borne out from the records besides the Domestic Enquiry initiated against the husband of first party and others in relation to this very charge parallel criminal proceedings was also initiated and all the officials have been convicted by the criminal court where in this official was accused No.13. Apart from that in respect of this very charge in the dispute raised by other five officials this tribunal while confirming the finding of the enquiry officer had reduced punishment of dismissal to compulsory retirement and that order when challenged by the second party before the Hon’ble High Court of Karnataka in Writ Petition No.556/94 same came to be allowed reversing the modification of punishment by this tribunal and confirmed order of dismissal passed by the Disciplinary Authority and even writ appeal preferred against that order came to

be dismissed. Having regard to this development the first party in this case appears to have lost hope of success and actually abandoned the reference. Under the circumstances, I have no reason to interfere either in the finding of the enquiry officer as perverse or order of punishment imposed by the Disciplinary Authority confirmed by the Appellate Authority.

7. In the result I arrived at the conclusion of rejecting the reference affirming the order of dismissal passed by the Disciplinary Authority and pass the following

### ORDER

The reference is rejected holding that action of the management of Reserve Bank of India is justified in dismissing Late Shri V Thangaraj, Mazdoor w.e.f. 14.11.1991 based on the finding of the enquiry officer the charge being proved and that the first party is not entitle for any relief.

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 19 फरवरी, 2015

**का.आ. 371.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रगति ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ संख्या 39/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/02/2015 को प्राप्त हुआ था।

[सं. एल-12011/21/2013-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th February, 2015

**S.O. 371.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 39/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Pragati Gramin Bank and their workmen, received by the Central Government on 19/02/2015.

[No. L-12011/21/2013-IR (B-I)]

SUMATI SAKLANI, Section Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 13th January, 2015

**PRESENT :** Shri S. N. NAVALGUND, Presiding Officer

**C R No. 39/2013**

**I Party**

The Assistant General Secretary,  
Pragathi Gramin Bank Officers  
Association, No. 33/15, 1st Floor,  
III Cross, Gandhinagar, Bellary

**II Party**

The Chairman,  
Pragathi Gramin Bank,  
Head Office,  
Bellary-583 103.

**Appearances :**

I Party : Shri R Nagendra Naik, Advocate

II Party : Sh. B C Prabhakar, Advocate

**AWARD**

1. The Central Government vide Order No. L-12011/21/2013-IR(B-I) dated 31.05.2013 in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

**SCHEDULE**

“Whether the Government of India, Ministry of Finance can explore the possibility of amending the decision/guidelines issued and to decide whether the demands raised by the Union are justified or not?”

2. While Registering this reference in C R 39/2013 on the file of this tribunal when notices were issued to the Assistant General Secretary, Pragathi Gramin Bank Officers Association and the Chairman, Pragathi Gramin Bank (hereinafter referred as I Party and II Party respectively) both of them entered their appearance through their respective advocates and the I Party filed his claim statement on 29.01.2014, whereas, the II Party counter statement on 13.10.2014.

3. The I Party in his claim statement alleging that when National Federation of RRB officers (a wing of all India Rural Bank Employees Association) an apex body for which I Party is an affiliate had issued strike notice through its letter dated 23.05.2012 for observing a days all India Strike on 08.06.2012 and on receipt of such notice the RLC(C), Bellary initiated conciliation proceedings on 04.06.2012 and after holding meetings on 04.06.2012, 15.06.2012 and finally on 07.11.2012 submitted FOC as a result this reference came to be made narrated in detail the demands put forward in the said conciliation and justification for the same prayed for direction to the II Party to regularize the services of Coolies working in the various branch of the II Party Bank in the post of Messenger-cum-Sweeper/ Office Attendant with all consequential benefits from the date of initial engagement. INTER ALIA, the II party

opposed the demands giving their own reasoning and prayed to reject the same.

4. After completion of the pleadings when the matter was posted for Evidence the learned advocate appearing for the I party while filing the affidavits of Sh. Ganapathi Vishweswar Hegde, General Secretary of All Karnataka Gramin Banks Federation and Sh. Veerayya Swamy, a substitute messenger/coolie at Aland Branch of Pragathi Krishna Gramin Bank, Sh. Dattatreya Patil, a substitute messenger/coolie at Ujalam Branch of Pragathi Krishna Gramin Bank and Sh. K M Gurumurthy, General Secretary, Pragathi Krishna Gramin Bank examining them on oath as WW 1 to WW 4 respectively got exhibited Ex W-1 to Ex W-39 the detailed description of which are narrated in the annexure. INTER ALIA, the learned advocate appearing for the II party while filing the affidavit of Sh. A M Chandrashekar, Senior Manager - IR Section, Head Office of the II Party at Bellary examining him on oath as MW 1 (M) got exhibited Ex M-1 to Ex M-9 the detailed description of which are narrated in the annexure.

5. With the above pleadings and evidence brought on record when the matter was posted for arguments the learned advocate appearing for the I Party in the opening of the arguments while submitting that Demand No. (a) Regularisation/absorption of part time/daily waged workers in RRBs; (b) Parity of Pension; (d) Withdrawal of government order on deputations, H R Policy to reduce the staff strength and e. Representation of workman and Officer in the Board of management are being policy matters only Demand No. (c) Formation of National Rural Bank of India will be pressed into service. At this juncture when the tribunal drawing his attention to the schedule of reference which reads “Whether the Government of India, Ministry of Finance can explore the possibility of amending the decision/guidelines issued and to decide whether the demands raised by the Union are justified or not” asked where the Government has made a reference to adjudicate whether the demands put forward are justified expressing that the schedule of reference appears to be only seeking opinion of the Tribunal as to Whether the Government of India, Ministry of Finance can explore the possibility of amending the decision/guidelines issued by it and to decide whether the demands raised by the Union are justified or not he initially tried to split the schedule into two, one ‘Whether the Government of India, Ministry of Finance can explore the possibility of amending the decision/guidelines issued’ and second ‘and to decide whether the demands raised by the Union are justified or not’ urged that the tribunal may not answer the first part and consider the second part. But when the tribunal expressed its opinion that since the schedule of reference reads “Whether the Government of India, Ministry of Finance can explore the possibility of amending the decision/guidelines issued and to decide whether the demands raised by the Union are justified or not” how can



it be split and read and considered as urged by him he could not give appropriate answer and rest contended by saying that the I Party Union is satisfied if this tribunal give its opinion in the affirmative on the schedule. INTERALIA, the learned advocate appearing for the II Party urged the simple reading of the schedule of reference makes it clear that the referring authority has sought for opinion of the tribunal as to whether it can explore its possibility of amending the decision/guidelines issued by it and to decide whether the demands raised by the Union are justified or not as such it do not constitute an industrial dispute therefore this tribunal cannot give such opinion and the reference is liable to be rejected.

6. On appreciation of the schedule of the reference with the pleadings, evidence (which are not at all relevant for considering the schedule of the reference) and the arguments put forward by the learned advocates appearing for both the sides since I find the schedule of reference do not constitute an Industrial Dispute requiring an adjudication by this Tribunal, the reference is liable to be rejected for the following

#### REASONS

7. As already highlighted by me above since the schedule of reference reads “Whether the Government of India, Ministry of Finance can explore the possibility of amending the decision/guidelines issued and to decide whether the demands raised by the Union are justified or not” its plain reading makes its clear that the Government of India, Ministry of finance have asked for the opinion of this tribunal as to whether it can explore the possibility of amending the decision/ guidelines issued by it and to decide whether the demands raised by the Union are justified or not and has not referred to decide whether the demands put forward are justified or not. This opinion of mine is also strengthened since the schedule of demands is also not forwarded.

8. The appropriate government under Section 10(1)(d) of the Industrial Dispute Act, 1947 under which this reference is made when is of the opinion that any industrial dispute exists or is apprehended may refer the same or any matter appearing to be connected with or relevant to the dispute whether it relates to any matter specified in the second schedule or the third schedule for adjudication to the Tribunal but there is no scope to ask the opinion of the Tribunal as to whether it can explore the possibility of amending the decision its guidelines issued and to decide whether the demands raised by the union are justified or not. As defined under Section 2(k) of the Industrial Dispute Act, 1947 Industrial Dispute means any dispute or difference between employees and employers, or between employers and workman, or between workmen and workmen, which is connected with employment or non-employment or the terms of employment or with the conditions of labour of any person. On joint reading of

section 10(1)(d) and 2(k) of the Industrial Dispute Act, 1947 it is crystal clear that a reference could be made to the tribunal only when the dispute within the meaning of the Industrial Dispute is in existence or the dispute is apprehended. Though in the preamble of the reference order it is stated that the Central Government is of the opinion that an Industrial Dispute exist between the employers in relation to the management of Pragathi Gramin Bank and their workman the schedule it has referred for adjudication is not in respect of any dispute between the employers and the management of Pragathi Gramin Bank and as already adverted to by me above it could be understood as asking an opinion of this tribunal as to whether it can explore the possibility of amending the decision/guidelines issued by it relating to regularisation of coolies and to decide whether the demands are justified or not. Thus having arrived at conclusion the schedule of reference do not constitute an Industrial Dispute this tribunal cannot answer the schedule of reference which in my humble opinion answering it would amount to giving an opinion as to Whether the Government of India, Ministry of Finance can explore the possibility of amending the decision/guidelines issued and to decide whether the demands raised by the Union are justified or not. In the result, I pass the following

#### ORDER

The Reference is Rejected holding that the schedule of reference since do not constitute an Industrial Dispute and answering the same would amount to giving an opinion as to Whether the Government of India, Ministry of Finance can explore the possibility of amending the decision/guidelines issued and to decide whether the demands raised by the Union are justified or not.

S. N. NAVALGUND, Presiding Officer

#### ANNEXURE-I

##### Witnesses examined on behalf of II Party:

MW 1 (M) – Sh. A N Chandrasekhara, Senior Manager, IR Section

##### Witnesses examined on behalf of I Party:

WW 1(M) – Sh. Ganapathi Hegde, General Secretary

WW 2(M) – Veerayya Swami, Substitute Messenger/ Coolie

WW 3(M) – Sh. Dattatreya Patil, Substitute Messenger/ Coolie

WW 4(M) – Sh. K M Gurumurthy, General Secretary

##### Documents exhibited on behalf of II Party:

Ex M-1 : Copy of the Gazette Notification in respect of government of India guidelines dated 13.07.2010

Ex M-2	:	Copy of the Regional Rural Banks Act 1976	Ex W-15	:	Circular No. 56/2013-14 dated 11.12.2013
Ex M-3	:	Copy of the Bye-Law of the Officers Association	Ex W-16	:	Copy of Strike Notice dated 23.05.2012
Ex M-4	:	Copy of letter dated 27.11.2009	Ex W-17	:	Copy of conciliation proceedings dated 04.06.2012
Ex M-5	:	Copy of the reminder dated 14.03.2011 addressed to canara bank	Ex W-18	:	Copy of conciliation proceedings dated 15.06.2012
Ex M-6	:	Copy of the reminder dated 05.07.2011 addressed to canara bank	Ex W-19	:	Copy of FOC report dated 22.02.2013
Ex M-7	:	Copy of letter dated 28.07.2011 addressed to NABARD	Ex W-20	:	Copy of circular dated 27.09.1980
Ex M-8	:	Copy of letter dated 23.09.2011 of Canara Bank	Ex W-21	:	Copy of circular dated 30.09.1980
Ex M-9	:	Copy of the Gazette Notification dated 23.08.2013 of the Government of India about the amalgamation of Krishna Gramina Bank into Pragathi Gramina Bank	Ex W-22	:	Copy of circular dated 28.05.1981
<b>Documents exhibited on behalf of I Party:</b>			Ex W-23	:	Circular No. 100/83 dated 19.03.1983
Ex W-1	:	Copy of the Wage Paid Register	Ex W-24	:	Circular No. 13/92-93 dated 07.05.1992
Ex W-2	:	Copy of the approved by the Branch Manager	Ex W-25	:	Memo No. 111/92-93 dated 12.01.1993
Ex W-3	:	Copy of the Approved by the General Manager	Ex W-26	:	Circular No. 157/1999-2000 dated 31.03.2000
Ex W-4	:	Copy of the Approved by the General (General Bank), General Manager	Ex W-27	:	Copy of Memo dated 06.02.2001 and 18.01.2003
Ex W-5	:	Copy of the Bonus Paid Register	Ex W-28	:	Copy of Memo dated 18.10.2007 and 26.03.2009
Ex W-6	:	Copy of the Deposited Letter	Ex W-29	:	Copy of Letter dated 12.06.2009
Ex W-7	:	Copy of the Remittance Registers	Ex W-30	:	Letter written by II Party to Canara Bank dated 27.11.2009
Ex W-8	:	Copy of the debit voucher for payment	Ex W-31	:	Reply of the II Party dated 17.10.2011 to RTI Application
Ex W-9	:	Copy of the Std – Receipt's Indiant	Ex W-32	:	Letter written by II Party to Canara Bank dated 14.03.2011
Ex W-10	:	Copy of the Wages Extract	Ex W-33	:	Letter written by II Party to Canara Bank dated 05.07.2011
Ex W-11	:	Letter by General Manager dated 01.09.2014	Ex W-34	:	Letter written by Canara Bank to NABARD, HO dated 28.07.2011
Ex W-12	:	Memo No. 74/2014 dated 01.09.2014	Ex W-35	:	Letter written by Canara Bank to NABARD, HO dated 25.08.2011
Ex W-13	:	Memo No. 131/2008 dated 05.12.20083	Ex W-36	:	Memo of II Party dated 27.11.2012
Ex W-14	:	Memo No. 87/2012 – 13 dated 22.09.2012	Ex W-37	:	Memo of II Party dated 18.07.2013
			Ex W-38	:	Minutes of the Joint Conference held on 27.11.2012
			Ex W-39	:	Joint Forum letter to II Party dated 14.09.2011